

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  James C. Bastian, Jr. - Bar No. 175415 Ryan D. O'Dea - Bar No. 273478 Rika M. Kido - Bar No. 273780 SHULMAN BASTIAN FRIEDMAN & BUI LLP 100 Spectrum Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: JBastian@shulmanbastian.com ROdea@shulmanbastian.com RKido@shulmanbastian.com  <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Richard A. Marshack, Chapter 7 Trustee	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION</b>	
In re:  AB CAPITAL, LLC, a California limited liability company,    <div style="text-align: right;">Debtor(s).</div>	CASE NO.: 8:22-bk-11585-TA  CHAPTER: 7    <div style="text-align: center; padding: 10px;"> <b>NOTICE OF SALE OF ESTATE PROPERTY***</b> </div>

<b>Sale Date:</b> 07/11/2023	<b>Time:</b> 11:00 am
<b>Location:</b> United States Bankruptcy Court, Courtroom 5B, 411 West Fourth Street, Santa Ana, CA 92701**	

**Type of Sale:** ☒ Public ☐ Private      **Last date to file objections:** 06/27/2023

**Description of property to be sold:** Real property located at 38861 Elmwood Drive, Rancho Mirage, California ("Property")

\*\*\*The Property is not property of the Estate. However, the Trustee is listing the Property for sale pursuant to the Preliminary Injunction entered Nov. 30, 2022 in adversary proceeding entitled, Marshack v. Pukini, et al., Adv. Case No. 8:22-ap-01091-TA ("Preliminary Injunction"). Pursuant to the Preliminary Injunction, the Trustee is expressly permitted to sell the Property, subject to filing a noticed motion and resulting Court order. Sale Motion provides for this Notice.

**Terms and conditions of sale:** See attached Sale Motion

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**Proposed sale price:** \$415,000.00

\*\*Appearance via Zoom - see Supplemental Notice of Hearing To Be Held Remotely Using Zoomgov Audio And Video.

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

**Overbid procedure (if any):** See attached Sale Motion for the Bidding Procedures

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**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

July 11, 2023 at 11:00 a.m.

United States Bankruptcy Court

Courtroom 5B, 411 West Fourth Street

Santa Ana, CA 92701

[Appearance Via Zoom - see Supplemental Notice of Hearing to be  
Held Remotely Using Zoomgov Audio and Video]

**Contact person for potential bidders (include name, address, telephone, fax and/or email address):**

Rika M. Kido, Esq.

Shulman Bastian Friedman & Bui LLP

100 Spectrum Center Drive, Suite 600

Irvine, California 92618

Telephone: (949) 340-3400

Facsimile: (949) 340-3000

Email: RKido@shulmanbastian.com

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Date: 06/13/2023

<p>Attorney or Party Name, Address, Telephone &amp; FAX Nos., State Bar No. &amp; Email Address</p> <p>James C. Bastian, Jr. - Bar No. 175415          Ryan D. O'Dea - Bar No. 273478          Rika M. Kido - Bar No. 273780          SHULMAN BASTIAN FRIEDMAN &amp; BUI LLP          100 Spectrum Center Drive, Suite 600          Irvine, California 92618          Telephone: (949) 340-3400          Facsimile: (949) 340-3000          Email: JBastian@shulmanbastian.com          ROdea@shulmanbastian.com          RKido@shulmanbastian.com</p> <p><input type="checkbox"/> Individual appearing without attorney  <input checked="" type="checkbox"/> Attorney for: Richard A. Marshack, Chapter 7 Trustee</p>	<p>FOR COURT USE ONLY</p>
<p><b>UNITED STATES BANKRUPTCY COURT          CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION</b></p>	
<p>In re:</p> <p>AB CAPITAL, LLC, a California limited liability company,</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 8:22-bk-11585-TA          CHAPTER: 7</p> <p><b>NOTICE OF MOTION FOR:</b></p> <p>CHAPTER 7 TRUSTEE'S MOTION FOR ORDER: (1) CONFIRMING THE SALE OF REAL PROPERTY OWNED BY DEBTOR'S AFFILIATE, SUBJECT TO OVERBID, COMPORTS WITH THE PRELIMINARY INJUNCTION ENTERED IN THE ADVERSARY PROCEEDING; (2) AUTHORIZING THE TRUSTEE TO EXECUTE ANY AND ALL DOCUMENTS CONVENIENT AND NECESSARY TO THE SALE; AND (3) GRANTING RELATED RELIEF</p> <p><b>(Specify name of Motion)</b></p> <p>DATE: 07/11/2023          TIME: 11:00 am          COURTROOM: 5B [Appearance via Zoom] **          PLACE: 411 West Fourth Street          Santa Ana, CA 92701</p>

1. TO (*specify name*): United States Trustee, the Debtor and the parties listed on the attached proof of service
2. NOTICE IS HEREBY GIVEN that on the following date and time and in the indicated courtroom, Movant in the above-captioned matter will move this court for an Order granting the relief sought as set forth in the Motion and accompanying supporting documents served and filed herewith. Said Motion is based upon the grounds set forth in the attached Motion and accompanying documents.
3. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)

**\*\*See the Supplemental Notice of Hearing To Be Held Remotely Using Zoomgov Audio And Video**

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

4. **Deadline for Opposition Papers:** This Motion is being heard on regular notice pursuant to LBR 9013-1. If you wish to oppose this Motion, you must file a written response with the court and serve a copy of it upon the Movant or Movant's attorney at the address set forth above no less than fourteen (14) days prior to the above hearing date. If you fail to file a written response to this Motion within such time period, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.
5. **Hearing Date Obtained Pursuant to Judge's Self-Calendaring Procedure:** The undersigned hereby verifies that the above hearing date and time were available for this type of Motion according to the judge's self-calendaring procedures.

Date: 06/13/2023

SHULMAN BASTIAN FRIEDMAN & BUI LLP  
Printed name of law firm

/s/ Rika M. Kido  
Signature

Rika M. Kido  
Printed name of attorney

1 James C. Bastian, Jr. - Bar No. 175415  
Ryan D. O'Dea - Bar No. 273478  
2 Rika M. Kido - Bar No. 273780  
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6 RKido@shulmanbastian.com

7 Special Litigation Counsel for Richard A. Marshack,  
Chapter 7 Trustee

8  
9 **UNITED STATES BANKRUPTCY COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

11 In re  
12 **AB CAPITAL, LLC,**  
13 **a California limited liability company,**  
14 Debtor.

Case No. 8:22-bk-11585-TA

Chapter 7

**CHAPTER 7 TRUSTEE'S MOTION FOR ORDER:**

- 15 (1) **CONFIRMING THE SALE OF REAL**  
16 **PROPERTY OWNED BY DEBTOR'S**  
17 **AFFILIATE, SUBJECT TO OVERBID,**  
18 **COMPORTS WITH THE PRELIMINARY**  
19 **INJUNCTION ENTERED IN THE ADVERSARY**  
20 **PROCEEDING;**
- 21 (2) **AUTHORIZING THE TRUSTEE TO EXECUTE**  
22 **ANY AND ALL DOCUMENTS CONVENIENT**  
23 **AND NECESSARY TO THE SALE; AND**
- 24 (3) **GRANTING RELATED RELIEF;**

25 **MEMORANDUM OF POINTS AND AUTHORITIES;**  
26 **DECLARATIONS OF RICHARD A. MARSHACK,**  
27 **CLARENCE YOSHIKANE, AND RIKA M. KIDO IN**  
28 **SUPPORT THEREOF**

[Real Property located at 38861 Elmwood Drive,  
Rancho Mirage, CA 92270]

**Hearing Date:**

Date: July 11, 2023

Time: 11:00 a.m.

Place: Courtroom 5B [Appearance Via Zoom]<sup>1</sup>  
411 West Fourth Street  
Santa Ana, California 92701

<sup>1</sup> See the Supplemental Notice of Hearing To Be Held Remotely Using Zoomgov Audio And Video.

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**TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY  
JUDGE, UNITED STATES TRUSTEE, THE DEBTOR, ALL CREDITORS, AND ALL  
INTERESTED PARTIES AND THEIR COUNSEL:**

Richard A. Marshack, solely in his capacity as the Chapter 7 Trustee (“Trustee”) for the bankruptcy estate (“Estate”) of AB Capital, LLC, a California limited liability company (“Debtor”) brings this Motion For Order: (1) Confirming the Sale of Real Property Owned by Debtor’s Affiliate, Subject to Overbid, Comports With the Preliminary Injunction Entered in Adversary Proceeding; (2) Authorizing the Trustee to Execute Any and All Documents Convenient and Necessary to the Sale; and (3) Granting Related Relief (“Motion”). In support of the Motion, the Trustee respectfully represents as follows:

**I. SUMMARY OF ARGUMENT<sup>2</sup>**

The Trustee has received an offer from Christopher A. Witham or his assignee<sup>3</sup> (“Buyer”), to purchase the real property located at 38861 Elmwood Drive, Rancho Mirage, California 92270 (“Property”) for the price of \$415,000.00, subject to overbids. As the Court is aware, the Property is not property of the Estate.<sup>4</sup> The Property is owned by the Pukini Trust, which is an affiliate of the Debtor, a Defendant in the Insider Action, and an Enjoined Party pursuant to the Preliminary Injunction. Pursuant to the Preliminary Injunction, in the Trustee’s discretion and business judgment, the Trustee was expressly permitted to actively market the Property for sale and take all steps necessary and convenient to market and consummate the sale of the Property; provided, however that the sale is expressly conditioned upon the filing of a noticed motion and resulting Court order. Therefore, the Trustee files this Motion in compliance with and pursuant to procedures contemplated by the Preliminary Injunction.

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<sup>2</sup> All capitalized terms are defined below.

<sup>3</sup> Any assignee needs prior approval by the Trustee.

<sup>4</sup> The Trustee is investigating the relationship between the Debtor and the Pukini Trust, and believes it may be possible that the Pukini Trust and the Debtor may be determined to be alter egos of each other, and other entities and individuals, and that the Pukini Trust may at some point become subject to proceedings to substantively consolidate the Pukini Trust and the Estate. Further, while at present the Property is not property of the Estate, the Property may also be recovered as an avoidable transfer, at which point, the Property becomes property of the Estate when the transfer has been avoided. *See Midland Euro Exchange Inc. v. Swiss Finance Corp. (In re Midland Euro Exchange Inc.)*, 347 B.R. 708, 719 (Bankr. C.D. Cal 2006).

1 The Trustee is aware that the Court is used to seeing a motion brought pursuant to Section  
2 363 of the Bankruptcy Code for a sale in a bankruptcy case. While the Trustee's authority to sell  
3 the Property is different for this sale, Section 363(b) of the Bankruptcy Code is instructive and  
4 provides a good framework for which the Court and interested parties can review the Trustee's  
5 decision to sell the Property pursuant to the terms of the Preliminary Injunction. Paragraph 12 of  
6 the Preliminary Injunction provides that "[i]n the Trustee's discretion and business judgment," the  
7 Trustee may sell the Property. The offer by the Buyer is the highest and best offer the Estate has  
8 received for the Property after issues were discovered regarding the lot line and remodeling that had  
9 been completed without proper building permits in place. In the event the purchase price for the  
10 Property is increased by a successful overbid (at an auction to be held at the hearing on this Motion),  
11 the estimated net proceeds from the sale of the Property will increase.

12 The sale of the Property is expected to be a consensual short sale as there is no equity above  
13 the liens and encumbrances against the Property. The Investor Creditors have agreed to accept a  
14 reduced payment on their lien and based on ongoing settlement discussions with the Jilanchi  
15 Creditors, they will not stand in the way of the sale. Further, the Investor Creditors and the Broker  
16 have agreed to carve-out and assign a distribution of their payment to the Trustee to assist in  
17 defraying the fees and expenses associated with the marketing and sale of the Property pursuant to  
18 the Preliminary Injunction. Specifically, the Investor Creditors have agreed to carve-out and assign  
19 a distribution to the Trustee in sum of **\$37,704.16** and the Broker has agreed to carve-out and assign  
20 a distribution to the Trustee in the sum of approximately **\$4,150.00**. After payments to the Investor  
21 Creditors, there are no funds available for payment to the Jilanchi Creditors. Accordingly, there is  
22 a sound business justification for the sale which complies with the requirements of the Preliminary  
23 Injunction.

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25 ///

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1 Finally, the Trustee requests the Court authorize that he may execute any and all documents  
2 convenient and necessary to consummate the sale of the Property consistent with the Agreement  
3 and Preliminary Injunction, including but not limited to the Agreement and any amendments thereto,  
4 any counter-offers, any document(s) whereby the Trustee expressly consents to closing on the sale  
5 of the Property, any and all conveyances contemplated by the Agreement attached as **Exhibit “4”**  
6 to the Marshack Declaration, any beneficiary demand statements, and any deeds of reconveyance  
7 (if needed). The Trustee further requests the Court authorize him to make disbursements through  
8 escrow on the sale of the Property as described in detail below.

9 **II. RELEVANT FACTS**

10 **A. Case Commencement and Appointment of Trustee**

11 On September 15, 2022, the Initial Petitioning Creditors<sup>5</sup> filed an involuntary chapter 7  
12 bankruptcy petition against Debtor.

13 On September 19, 2022, an emergency motion was filed by the Initial Petitioning Creditors,  
14 seeking the appointment of an interim trustee pursuant to 11 U.S.C. § 303(g) [Docket No. 7].  
15 Following a hearing held on September 22, such motion was granted, and the Office of the United  
16 States Trustee appointed the Trustee to provide specific services related to AB Capital’s operations  
17 [Docket Nos. 36, 38].

18 On October 6, 2022, the orders for relief were entered [Docket Nos. 58-59]. That same day,  
19 the AB Capital Court entered an order expanding the Trustee’s powers to include all the powers of  
20 a Chapter 7 trustee, including to “take possession of the property of the estate and to operate any  
21 business of the debtor” [Docket No. 62].

22  
23 <sup>5</sup> The Involuntary Petition was signed by 17 Properties I, LLC, Ira M. Hermann and Anita Hermann, as Trustees of the  
24 Hermann Family Trust dated October 7, 1993, Andrew D. Hermann and Karen L. Hermann, as Trustees of the Andrew  
25 D. and Karen L. Hermann Trust dated March 25, 2009, James John Murphy Jr. and Karen Kawatomari Murphy, as  
26 Trustees of the James John Murphy Jr. and Karen Kawatomari Murphy 1997 Revocable Trust dated October 1, 1997,  
27 Mariana Figueroa Gruenberg, Mark Treitler, as Trustee of the Treitler Family Trust, Bryan Werlemann as Trustee of  
28 the Bryan A. Werlemann Trust dated July 9, 1999, and Jonathan Beigler (collectively the “Initial Petitioning Creditors”).  
On October 3, 2022, Geoffrey Field, Trustee of the Geoffrey P. Field Living Trust dated 8/10/2011, Michael Bumbaca  
and Adele Bumbaca, Husband and Wife as Community Property with ROS, and Noreen Kennedy, Trustee of the Noreen  
Kay Kennedy Separate Property Trust dated 5/16/2005, filed joinders to the Involuntary Petition [dockets 50-52] and  
on October 4, 2022, Kana Hishiya filed her joinder to the Involuntary Petition [docket 53] (collectively the “Joining  
Petitioning Creditors”). The Initial Petitioning Creditors and the Joining Petition Creditors are collectively referred to  
as the “Petitioning Creditors.”

**B. Insider Action and the Preliminary Injunction**

On October 18, 2022, the Trustee Marshack filed a Complaint for: (1) Breach of Fiduciary Duty; (2) Conversion; (3) Money Had and Recovered; (4) Unjust Enrichment; (5) Turnover of Property of the Estate (11 U.S.C. § 542); (6) Turnover of Property be Custodian (11 U.S.C. § 543), (7) Avoidance and Recovery of Fraudulent Transfer (11 U.S.C. § 548), (8) Avoidance and Recovery of Fraudulent Transfer (Cal. Civ. Code § 3439(a)(1)), and (9) Violation of Cal. Penal Code § 496(a) against defendants, Joshua R. Pukini (“Mr. Pukini”), individually and as trustee of The Joshua R. Pukini Trust dated 6/27/2013; Ryan Young, individually and as trustee of The Young Family Trust dated 8/24/2014, the Ryan J. Young Trust, and the Young Ryan Trust; Edmund Valasquez, Jr.; 108 Avenida Serra, LLC; 1034 W Balboa, LLC; 31831 Sunset LLC; AB Capital Fund A, LLC; AB Capital Fund B, LLC; AB Capital Holdings I, LLC; AB Capital LFD, Inc.; ABC 2260 San Ysidro LLC; BDP Development Partners, LLC; Cal-Pac Distressed Real Estate Fund I, LLC; Calpac Management, Inc.; CalPac Mortgage Fund, LLC; Living Art Works LLC; Luna Construction Management, LLC; and Tablerock Enterprises, LLC (“Defendants”), commencing Adv. Case No. 8:22-ap-01091-TA (“Insider Action”).

Concurrent with commencing the Insider Action, the Trustee filed his Motion for (1) Emergency Issuance of a Temporary Restraining Order Without Notice Pursuant to FRBP 7056(b)(1) and LBR 7056-1(b)(1); and (2) Issuance of Preliminary Injunction After Hearing on Expedited Basis Pursuant to FRBP 7056(b) [Adversary Proceeding, Docket No. 2] (“Injunction Motion”) in the Insider Action. Following a continued hearing on the Injunction Motion, on November 30, 2022, the Court issued a Preliminary Injunction [Adversary Proceeding, Docket No. 32], a copy of which is attached to the Declaration of Richard A. Marshack annexed to this Motion (“Marshack Declaration”) as **Exhibit “1”**.<sup>6</sup>

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<sup>6</sup> On June 2, 2023, the Order Approving Stipulation to Extend Term of Preliminary Injunction was entered in the Insider Action (“PI Extension Order”). Pursuant to the PI Extension Order, the term of the Preliminary Injunction is extended up to and including February 28, 2024. Further, on June 7, 2023, the Order Approving the Stipulation to Extend Term of Preliminary Injunction to Include and Bind the Joshua R. Pukini Trust Dated June 27, 2023 was entered in the Insider Action (“PI Pukini Extension Order”). True and correct copies of the PI Extension Order and the PI Pukini Extension Order are attached to the Marshack Declaration as **Exhibit “2”**.

Paragraph 12 of the Preliminary Injunction provides as follows:

In the Trustee's discretion and business judgment, the Trustee is expressly permitted to actively market for sale the Affiliate or Insider Real Property, and take all steps necessary and convenient to market and consummate the sale of any Affiliate or Insider Real Property, including execution of documents; provided, however that the Trustee's sale of any Affiliate or Insider Real Property is expressly conditioned upon such sale being the subject of a noticed motion and resulting Court order.

An "Affiliate or Insider Real Property" is defined in Paragraph 3(iii) of the Preliminary Injunction as follows:

(iii) Any and all personal property, real property, or interests in real property, held, directly or indirectly, in the name or for the benefit of Debtor's affiliates or insiders including but not limited to the following: 1034 W. Balboa Boulevard, Newport Beach, CA 92661; 108 Avenida Serra, San Clemente, CA 92672; 31831 Sunset Avenue, Laguna Beach, CA 92651; 1 Makena Lane, Rancho Mirage, CA 92270; 2 Makena Lane, Rancho Mirage, CA 92270; 4 Makena Lane, Rancho Mirage, CA 92270; 5 Makena Lane, Rancho Mirage, CA 92270; 7 Makena Lane, Rancho Mirage, CA 92270; 2260 San Ysidro Drive, Los Angeles, CA 90210; 3301 Coldwater Canyon Avenue, Studio City, CA 91604; 530 Alta Vista Way, Laguna Beach, CA 92651; 1312 Beverly Grove Place, Beverly Hills, CA 90210; 501 S. Olive Street, Anaheim, CA 92805; 109 Rivo Alto Canal, Long Beach, CA 90803; 170 N. Circulo Robel, Anaheim, CA 92807; 20620 Manzanita Avenue, Yorba Linda, CA 92886; 5578 Avenida Adobe, Yorba Linda, CA 92886; 5632 Campo Walk, Long Beach, CA 90803; 7890 East Berner Street, Long Beach, CA 90808; and 38861 Elmwood Drive, Rancho Mirage, CA 92270; 2826-041-022, Los Angeles County, CA; 112 22nd Street, Newport Beach, CA 92663; and 7900 E. Cramer Street, Long Beach, CA 90808 (the "Affiliate or Insider Real Property Interests").

The Property, which is the subject of this Motion, is specifically included in Paragraph 3(iii) of the Preliminary Injunction.

Pursuant to Paragraph 14 of the Preliminary Injunction:

14. In the Trustee's discretion and business judgment, the Trustee is expressly permitted to take all steps necessary to monetize or realize value on account of Affiliate or Insider Ownership Interests. The Trustee's entry into a transaction to sell, monetize or realize value for Affiliate or Insider Ownership Interests is expressly conditioned upon such a sale being the subject of a noticed motion and resulting Court order.

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1 Finally, Paragraph 16 of the Preliminary Injunction<sup>7</sup> provides as follows:

2 16. For the avoidance of doubt, the Trustee shall have final  
3 authority regarding the sale or other disposition of any of the Enjoined  
4 Property, and approval of any sale or disposition of the Enjoined  
5 Property must be expressly approved by the Trustee in writing prior  
6 to closing or consummating such a transaction, or otherwise  
7 authorized by Court order.

8 Therefore, pursuant to the Preliminary Injunction, in the Trustee's discretion and business  
9 judgment, the Trustee was expressly permitted to actively market the Property for sale and take all  
10 steps necessary and convenient to market and consummate the sale of the Property; provided,  
11 however that the sale is expressly conditioned upon the filing of a noticed motion and resulting  
12 Court order.

13 **C. The Property and Sale of the Property**

14 The Property is a single family residence located in Riverside County, California. The  
15 Property is legally described on page 2 of the Title Report dated January 11, 2023 ("Title Report"),  
16 a copy of which is attached as **Exhibit "3"** to the Marshack Declaration. Pursuant to the Title  
17 Report, title to the Property is vested in "Joshua R. Pukini, Trustee of the Joshua R. Pukini Trust  
18 dated 6/27/13," ("Pukini Trust") which is an affiliate of the Debtor, a Defendant in the Insider  
19 Action, and an Enjoined Party to the Preliminary Injunction.

20 The Buyer has offered to purchase the Property for \$415,000.00 ("Purchase Price"). The  
21 Purchase Price includes a deposit of \$20,000.00. A true and correct copy of the Residential Purchase  
22 Agreement and Joint Escrow Instructions and its addenda (collectively the "Agreement") is attached  
23 to the Marshack Declaration as **Exhibit "4"**. Given that the sale is subject to overbids, it is  
24 anticipated that the final purchase price will receive the best and highest value for the Property and  
25 is therefore fair and reasonable.

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28 <sup>7</sup> "Enjoined Property" is defined in Paragraph 2 of the Preliminary Injunction as "any asset, including bank or brokerage  
accounts, of any kind owned or controlled, in whole or in part, by any of the Enjoined Parties and pursuant to Paragraph  
3, it includes "Affiliate or Insider Real Property." The Enjoined Parties are defined in Paragraph 2 of the Preliminary  
Injunction as the "Defendants, and any entity, affiliate, or subsidiary owned or controlled in whole or in part by  
Defendants."

1 **D. Treatment of Liens and Encumbrances Through the Sale**

2 The Title Report lists the liens and encumbrances impacting the Property. Additional details  
3 regarding each lien, including estimated amounts owing on these liens and encumbrances, any  
4 resolutions reached with creditors regarding such liens and encumbrances, and the proposed  
5 treatment of such liens and encumbrances through the sale are as follows:

6 **1. Real Property Taxes**

7 Pursuant to the Title Report, the two installments of real property taxes for fiscal year 2022-  
8 2023 remain unpaid totaling \$4,758.40. All outstanding real property taxes will be paid through  
9 escrow on the sale transaction.

10 **2. 1<sup>st</sup> Deed of Trust – Stephen A. Field IRA**

11 Pursuant to the Title Report, a first deed of trust in the amount of \$260,000.00 was recorded  
12 against the Property for the benefit of PENSCO Trust Company LLC Custodian FBO Stephen A.  
13 Field IRA (“Stephen Fields IRA”) on March 6, 2017, Instrument No. 2017-0091958 (“Stephen  
14 Fields DOT”). Pursuant to the Borrower’s Final Settlement Statement dated April 29, 2022 (“Final  
15 Settlement Statement”), the Stephen Fields DOT was rolled over into the Investors DOT (defined  
16 below). A true and correct copy of the Final Settlement Statement is attached as **Exhibit “5”** to the  
17 Marshack Declaration. Since this lien was rolled over into the Investors DOT, this lien will not be  
18 paid through escrow on the sale transaction.

19 **3. Stephanie Pukini Lis Pendens**

20 Pursuant to the Title Report, a Notice of Pendency of Action was recorded by Stephanie  
21 Pukini (“Mrs. Pukini”) on December 2, 2020, Instrument No. 2020-0606406 (“Pukini Lien”). The  
22 Pukini Lien relates to the dissolution proceeding pending the Superior Court of the State of  
23 California, County of Orange, *Pukini v. Pukini*, Case No. 20D005539. The Trustee’s counsel has  
24 requested a withdrawal of the Pukini Lien and has been advised by Mrs. Pukini’s family law counsel  
25 that a withdrawal will be provided.

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1           **4.       2<sup>nd</sup> Deed of Trust – Various Investors of the Debtor**

2           Pursuant to the Title Report, a second deed of trust in the amount of \$385,000.00 was  
3 recorded against the Property on April 28, 2022, Instrument No. 2022-0200750 for the benefit of  
4 various investors of the Debtor as reflected on a Lender Vesting Addendum attached to the deed of  
5 trust (“Investors DOT”). Specifically, the Lender Vesting Addendum provides that the following  
6 investors are beneficiaries of the Investors DOT: Forge Trust Company Custodian FBO Geoffrey  
7 P. Field IRA as to an undivided 75,000/385,000 interest, Geoffrey P. Field, Trustee of the Geoffrey  
8 P. Field Living Trust dated August 10, 2011 as to an undivided 75,000/385,000 interest, and Stephen  
9 A. Field, Trustee of the Stephen A. Field Family Trust dated June 6, 1992 as to an undivided  
10 235,000/385,000 interest<sup>8</sup> (collectively, “Investor Creditors”). The Investors DOT will be paid  
11 through escrow on the sale transaction.

12           Pursuant to a loan payoff for the Investors DOT, which assumes closing takes place on June  
13 30, 2023, the total payoff amount (including principal, interest, late fees, and loan charges) is  
14 \$419,298.88 (“Investor Creditors Payoff”). A true and correct copy of the Investor Creditors Payoff  
15 is attached as **Exhibit “6”** to the Marshack Declaration. After payment of costs of sale and  
16 outstanding real property taxes, there is insufficient equity available for payment in full to the  
17 Investor Creditors. Therefore, the Investors will receive their pro rata share of the amount of the  
18 remaining net proceeds after costs of sale and outstanding real property taxes (“Remaining Net  
19 Proceeds”). The Remaining Net Proceeds at the Purchase Price are estimated to be approximately  
20 \$377,041.60.<sup>9</sup>

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27 <sup>8</sup> This interest is the amount due on the Stephen Fields DOT that was rolled over into the Investors DOT.

28 <sup>9</sup> In the event the purchase price for the Property is increased by a successful overbid (at an auction to be held at the hearing), the estimated net proceeds from the sale of the Property will increase such that there are sufficient funds to pay the Investor Creditors Payoff in full.

1 In order to assist the Trustee in defraying the fees and expenses associated with the marketing  
2 and sale of the Property pursuant to the Preliminary Injunction, the Investor Creditors have agreed  
3 to carve-out and assign a ten percent (10%) distribution to the Trustee in the sum of approximately  
4 \$37,704.16 to be paid at closing (“Investor Carve-Out”).<sup>10</sup>

5 **5. Abstract of Judgment – Jilanchi, et al. v. Pukini, et al.**

6 Pursuant to the Title Report, an abstract of judgment in the amount of \$3,734,240.80 in favor  
7 of Saman Jilanchi, Qwan International Investments, LLC and Qwan Capital, LLC (“Jilanchi  
8 Creditors”), was recorded on June 17, 2022, Instrument No. 2022-219439 and Instrument No. 2022-  
9 219802 (“Jilanchi Lien”). It appears that the Jilanchi Lien was recorded twice on the same day. The  
10 Jilanchi Lien identifies the judgment debtors owing the debt as Joshua Pukini aka Josh Pukini, aka  
11 Joshua Raymond Pukini and Ryan Young aka Ryan Justin Young. After payment of costs of sale,  
12 the outstanding real property taxes, and payment to the Investor Creditors, there is insufficient equity  
13 available for any payment on the Jilanchi Lien.<sup>11</sup> The Trustee has been working with the Jilanchi  
14 Creditors on a settlement, which he expects to present prior to the hearing on this Motion. The  
15 Jilanchi Creditors will not stand in the way of the sale of the Property and the Jilanchi Lien will be  
16 released as to the Property, only, to allow the sale of the Property to close.

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26 <sup>10</sup> In the event the purchase price for the Property is increased by a successful overbid, the ten percent (10%) distribution  
to the Trustee will also increase until the Investor Creditors are paid in full (minus the Investor Carve-Out).

27 <sup>11</sup> In the event the purchase price for the Property is increased by a successful overbid such that the Investor Creditors  
28 are paid in full (minus the Investor Carve-Out) and there are funds remaining after deducting costs of sale, outstanding  
real property taxes and the payment to the Investor Creditors, any remaining funds will be paid to the Jilanchi Creditors  
on account of the Jilanchi Lien.

1 **E. Pukini Trust Does Not Object to the Sale of the Property**

2 On May 24, 2023, by the terms of the Pukini Trust, Lee Naujock (“Mr. Naujock”) was  
3 appointed the successor trustee for the Pukini Trust.<sup>12</sup> The Trustee’s counsel has provided a copy  
4 of this Motion to Mr. Naujock, in his capacity as the successor trustee for the Pukini Trust, and the  
5 Pukini Trust’s counsel. Mr. Naujock has confirmed, in his capacity as the successor trustee for the  
6 Pukini Trust, that he does not object to the sale of the Property.

7 **F. Broker Employment, Marketing Efforts and Basis for Value of the Property**

8 On May 26, 2023, the Court entered an Order authorizing the employment of  
9 BHHS/Berkshire Hathaway HomeServices California Properties (“Broker”) to assist the Trustee  
10 with the marketing and sale of the Property [Docket No. 224].

11 The Broker has agreed that its commission for the Property will not exceed six percent  
12 (6.0%) of the total purchase price of the Property, to be split as agreed upon by the Broker and  
13 buyer’s agent, with 1.0% of the total purchase price of the Property carved out and assigned to the  
14 Estate (“Broker Carve-Out”) in order to assist the Trustee with defraying the fees and expenses  
15 associated with the marketing and sale of the Property pursuant to the Preliminary Injunction.

16 The Broker has marketed the Property across multiple channels for over two months. The  
17 Broker prepared a comprehensive marketing package and contacted potential buyers by telephone,  
18 email, and hard mail, in addition to listing the Property on the MLS. Since the Property was listed,  
19 there have been twelve (12) agent calls and five (5) buyer calls.

20 The best determination of price is the market, which has spoken. The Buyer’s offer is the  
21 result of negotiations for the highest and best offer. Since accepting the Buyer’s offer, the Broker  
22 has continued to market the Property for overbids and an additional offer has been received (for  
23 \$420,000.00), which are subject to the prospective buyers’ inspections and due diligence.

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26 <sup>12</sup> On May 4, 2023, the Trustee filed the *Stipulation to Modify the Preliminary Injunction to Appoint J. Michael Issa as*  
27 *Chief Restructuring Officer of Defendants CalPac Mortgage Fund, LLC and CalPac Management, Inc. and Allow the*  
28 *Appointment of Lee Naujock as Successor Trustee to the Joshua R. Pukini Trust Dated June 27, 2013* in the Insider  
Action [Insider Action, Docket No. 138] (“CRO Stipulation”). In the CRO Stipulation, the Trustee confirmed that he  
did not object to the amendment to the Trust whereby Mr. Pukini resigned as the trustee of the Pukini Trust and Mr.  
Naujock was appointed the successor trustee of the Trust.

1 Further, the Broker has more than twenty (20) years of experience in the sale of real property  
2 as well as property valuations and is familiar with valuing real property in today's economic  
3 environment. The Broker has advised the Trustee that it believes the current sale price is consistent  
4 with local area comparable properties.

5 Because the best determination of price is the market, and because the proposed sale is  
6 subject to overbids, the sale will be at fair market value. Based on this, it is anticipated that the  
7 Trustee will receive the best and highest value for the Property and therefore the proposed sale price  
8 is fair and reasonable.

9 **G. Notice of Bidding Procedures**

10 The Trustee has determined that, to ensure that the best and highest value is received for the  
11 Property, the sale of the Property should be subject to overbids. Accordingly, in order to obtain the  
12 highest and best offer, the sale of the Property is subject to overbid at an auction to be conducted  
13 during the hearing on this Motion (the "Auction"). The Auction shall only be conducted if one or  
14 more Qualified Bids (defined below and other than the Agreement submitted by the Buyer) is timely  
15 received. The Trustee, therefore, is utilizing the following bidding procedures ("Bidding  
16 Procedures"):

17 1. Bid Qualification Process. To be eligible to participate in the Auction, each offer,  
18 solicitation, or proposal (each, a "Bid"), and each entity submitting such a Bid (each, a "Bidder"),  
19 must be determined by the Trustee to satisfy each of the following conditions (other than the existing  
20 Bid of the Buyer, which is deemed to have satisfied such conditions):

21 a. Form. The Bid must: (i) be in writing; (ii) disclose the identity of the  
22 individual or entity that will be bidding for the Property; and (iii) be in the form of a duly  
23 authorized, executed, and non-contingent purchase agreement, together with all schedules,  
24 exhibits, and related documents thereto.

25 b. Good Faith Deposit. The Bid must be accompanied by certified funds in an  
26 amount equal to three percent (3%) of the Bid.

27 c. Same or Better Terms. The Bid must be on terms and conditions that are  
28 substantially the same or better than, not more burdensome in any material way than, and no  
more conditional than the terms of the Agreement, as determined by the Trustee. The Bid  
may not contain additional termination rights, covenants, financing or due diligence  
contingencies, or closing conditions, other than as may be included in the Agreement.

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1 d. “As-Is,” “Where-Is Condition; No Warranties. The Bid must acknowledge  
2 that the Property is being sold on an “AS IS” basis without warranties of any kind, expressed  
3 or implied, being given by the Trustee, concerning the condition of the Property or the  
4 quality of the title thereto, or any other matters relating to the Property. The Bidder must  
5 represent and warrant that the Bidder is purchasing the Property as a result of Bidder’s  
6 investigations and is not buying the Property pursuant to any representation made by any  
7 broker, agent, accountant, attorney or employee acting at the direction, or on the behalf of  
8 the Trustee. The Bidder must acknowledge that he/she/it has inspected the Property, and  
upon closing of escrow governed by the Purchase Agreement, the Bidder forever waives, for  
himself/herself or their heirs, successors and assigns, all claims against the Debtor, its  
attorneys, agents and employees, the Debtor’s Estate, Richard A. Marshack as Trustee and  
individually, the Trustee’s general counsel, Marshack Hays, LLP, the Trustee’s special  
counsel, Shulman Bastian Friedman & Bui LLP, and the Trustee’s agents and employees,  
arising or which might otherwise arise in the future concerning the Property.

9 e. Corporate Authority. If the party bidding for the Property is an entity, the  
10 Bid must include written evidence reasonably acceptable to the Trustee demonstrating that  
the Bidder has full power and authority (including full corporate or other organizational  
power and authority) to consummate the proposed transaction contemplated by the Bid.

11 f. Proof of Financial Ability to Perform. The Bid must provide evidence of  
12 having sufficient specifically committed funds to complete the transaction and such other  
13 documentation relevant to the Bidder’s ability to qualify as the purchaser of Property and  
14 ability to close the sale and immediately and unconditionally pay the winning bid purchase  
15 price at close of escrow. To the extent that the Bid is not accompanied by evidence of the  
16 Bidder’s capacity to consummate the transaction contemplated by the Bid with unrestricted  
17 and fully available cash, the Bid must include written evidence of a firm, irrevocable  
commitment for financing or other evidence of ability to consummate evidence of ability to  
consummate the proposed transaction, documented to the satisfaction of the Trustee, by the  
submission of recent financial documentation (audited, if available), that will allow the  
Trustee to make a reasonable determination as to the financial and other capabilities of the  
Bidder to close escrow on the Property.

18 g. Irrevocable. The Bid must be irrevocable through the Auction; provided  
19 however, that if such Bid is accepted as the Successful Bid or Backup Bid (each defined  
below), such Bid shall continue to remain irrevocable, subject to the terms and conditions of  
the Bidding Procedures.

20 h. Bid Deadline. The Bid must be in writing and be received by the Trustee or  
21 his counsel, Rika M. Kido (rkido@shulmanbastian.com), on or before 5:00 p.m. (California  
time) on or before **three (3) business days prior to the hearing on the Motion.**

22 i. Amount of Bid. Each Bid must bid an initial amount of at least \$5,000.00  
23 over the Purchase Price, or \$420,000.00 (“Baseline Bid”). Minimum bid increments  
24 thereafter shall be in the amount of \$1,000.00. The Trustee has the sole and absolute  
discretion to determine which overbid is the best for the Estate and will seek approval of the  
Court of same.

25 The Trustee will review each Bid received from a Bidder to determine whether it meets the  
26 requirements set forth herein. A Bid received from a Bidder before the Bid Deadline that meets the  
27 above requirements shall constitute a “Qualified Bid,” and such Bidder shall constitute a “Qualified  
Bidder.”

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1           2. Auction. If one or more Qualified Bids (other than the Agreement submitted by the  
2 Buyer) is received by the Bid Deadline, the Trustee (or Court, if that is the Court's preference) will  
3 conduct the Auction to determine the highest or otherwise best Qualified Bid. If no Qualified Bid  
4 (other than the Agreement) is received by the Bid Deadline, no Auction shall be conducted and the  
5 Agreement shall be deemed to be the Successful Bid, and the Buyer shall be deemed to be the  
6 Successful Bidder. Only Qualified Bidders may participate in the Auction.

7           a. The Trustee (or Court) Shall Conduct the Auction. The Court (or Trustee, if  
8 that is the Court's preference) shall direct and preside over the Auction at the hearing on this  
9 Motion. Only the Buyer and such other Qualified Bidders (or their qualified representatives)  
10 will be entitled to make any Bids at the Auction.

11           b. Terms of Overbid. An "Overbid" is any Bid made at the Auction subsequent  
12 to the Trustee's announcement of the Baseline Bid that satisfies each of the following:

13           i. Minimum Overbid Increment. Any Overbid after the Baseline Bid  
14 shall be made in increments valued at not less than \$1,000.00.

15           ii. Remaining Terms Are the Same as for Qualified Bids. Except as  
16 modified herein, an Overbid must comply with the conditions for a Qualified Bid set  
17 forth herein; provided, however, that the Bid Deadline shall not apply. Any Overbid  
18 must remain open and binding on the Bidder until and unless the Trustee accepts a  
19 higher Overbid.

20           c. Successful Bidder. The Auction shall continue until the Trustee determines  
21 in his reasonable business judgment that there is a highest or otherwise best Qualified Bid at  
22 the Auction (a "Successful Bid," and each Bidder submitting such Successful Bid, a  
23 "Successful Bidder"). The Auction shall not close unless and until all Bidders who have  
24 submitted Qualified Bids have been given a reasonable opportunity, as determined by the  
25 Trustee, to submit an Overbid at the Auction to the then-existing Overbids. At the hearing  
26 on the Motion, the Trustee will seek entry of an order, *inter alia*, authorizing and approving  
27 the sale of the Property to the Successful Bidder. The hearing on the Motion may be  
28 adjourned or rescheduled without notice other than by an announcement of the adjourned  
date at the hearing on the Sale Motion.

          d. First Backup Bidder. The entity/individual with the second highest or  
otherwise best Qualified Bid at the Auction, as determined by the Trustee, in the exercise of  
his business judgment, will be designated as the first backup bidder (the "First Backup  
Bidder"). The First Backup Bidder shall be required to keep its initial Bid (or, if the First  
Backup Bidder submitted one or more Overbids at the Auction, its final Overbid) (the "First  
Backup Bid") open and irrevocable until the close of escrow on the Sale of the Property with  
the Successful Bidder. In the event the Successful Bidder fails to close within twenty-one  
(21) calendar days after entry of an order of the Court confirming the sale or other the time  
parameters approved by the Court ("Closing Deadline"), the Trustee shall retain the  
Successful Bidder's Deposit and will be released from his obligation to sell the Property to  
the Successful Bidder. The Trustee shall proceed to consummate the First Backup Bid with  
the First Backup Bidder.

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1 e. Second Backup Bidder. The entity/individual with the third highest or  
2 otherwise best Qualified Bid at the Auction, as determined by the Trustee, in the exercise of  
3 his business judgment, will be designated as the second backup bidder (the "Second Backup  
4 Bidder"). The Second Backup Bidder shall be required to keep its initial Bid (or, if the  
5 Second Backup Bidder submitted one or more Overbids at the Auction, its final Overbid)  
6 (the "Second Backup Bid") open and irrevocable until the close of escrow on the Sale of the  
7 Property with the Successful Bidder or, in the event the Successful Bidder failed to close on  
the sale of the Property, the First Backup Bidder. In the event the First Backup Bidder fails  
to close on the sale of the Property within twenty-one (21) calendar days after the Closing  
Deadline or other the time parameters approved by the Court, the Trustee shall retain the  
First Backup Bidder's Deposit and will be released from his obligation to sell the Property  
to the First Backup Bidder. The Trustee shall proceed to consummate the Second Backup  
Bid with the Second Backup Bidder.

8 3. Modification of the Bidding Procedures. The Trustee may modify the above Bidding  
9 Procedures in his reasonable business judgment.

10 4. Return of Good Faith Deposit. The Good Faith Deposits of the Qualified Bidders  
11 shall be held by the Trustee. The Good Faith Deposit of any Qualified Bidder that is neither the  
12 Successful Bidder nor the First Backup Bidder nor the Second Backup Bidder shall be returned to  
13 such Qualified Bidder not later than two (2) business days after the hearing on the Motion. If the  
14 Successful Bidder timely closes escrow on the Property, its Good Faith Deposit shall be credited  
15 towards its purchase price. The Good Faith Deposit of the First Backup Bidder and Second Backup  
16 Bidder shall be returned to the First Backup Bidder and Second Backup Bidder twenty-four (24)  
17 hours after the Successful Bidder closes escrow on the Property. In the event the Successful Bidder  
fails to close on the sale of the Property within the time parameters approved by the Court, the Good  
Faith Deposit of the First Backup Bidder shall be credited towards its purchase price. The Good  
Faith Deposit of the Second Backup Bidder shall be returned to the Second Backup Bidder twenty-  
four (24) hours after the First Backup Bidder closes escrow on the Property. In the event the First  
Backup Bidder fails to close on the sale of the Property within the time parameters approved by the  
Court, the Good Faith Deposit of the Second Backup Bidder shall be credited towards its purchase  
price. The return of the Good Faith Deposit of the Successful Bidder or the First Backup Bidder  
who fails to close the transaction shall be determined by the terms of the Agreement.

18 The Bidding Procedures will be provided to all creditors and any potential bidders or parties  
19 who have shown an interest in the Property. While this is not a sale of estate property, the form  
20 Notice of Sale of Estate Property will be filed with the Court for posting on the Court's website  
21 under the link "Current Notices of Sales," which affords notice to additional potential interested  
22 parties. The Trustee's Broker will also update the Multiple Listing Service to reflect the Bidding  
23 Procedures. Based on the foregoing, the Trustee believes that under the circumstances of this case,  
24 the Property will have been appropriately marketed for bidding.

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**III. ARGUMENT**

**A. This Motion Comports With the Requirements of the Preliminary Injunction That the Sale of the Property is Expressly Conditioned Upon the Filing of a Noticed Motion and Resulting Court Order.**

Paragraphs 12 and 14 of the Preliminary Injunction provide that the sale of the Property is expressly conditioned upon the filing of a noticed motion and resulting Court order. While Paragraph 16 of the Preliminary Injunction provides that the Trustee shall have final authority regarding the sale of the Property, he may proceed with such a sale only with an Order from this Court approving such a sale. Therefore, the Trustee has filed this Motion regarding the sale of the Property to ensure that he has complied with the Preliminary Injunction.

**B. While This is Not a Sale of Estate Property, Section 363(b) of the Bankruptcy Code is Instructive to Show There is a Sound Business Justification for the Sale Which Comports With the Requirements of the Preliminary Injunction.**

The sale of the Property is not property of the Estate. The Property is owned by the Pukini Trust, which is an affiliate of the Debtor, a Defendant in the Insider Action, and an Enjoined Party to the Preliminary Injunction. Pursuant to Paragraph 12 of the Preliminary Injunction, in the Trustee's discretion and business judgment, the Trustee was expressly permitted to actively market the Property for sale and take all steps necessary and convenient to market and consummate the sale of the Property. While this is not a sale of property of the Estate, the sale of bankruptcy estate property under Section 363(b) of the Bankruptcy Code is instructive and provides a good framework for which the Court and interested parties can review the Trustee's decision to sell the Property pursuant to the terms of the Preliminary Injunction.

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Paragraph 12 of the Preliminary Injunction provides that “[i]n the Trustee’s discretion and business judgment,” the Trustee may sell the Property. The sale of estate property pursuant to 11 U.S.C. § 363(b)(1) must demonstrate a valid business justification. *In re 240 North Brand Partners v. Colony GFP Partners, L.P. (In re 240 North Brand Partners)*, 200 B.R. 653, 659 (9th Cir. BAP 1996)(citing to *In re Lionel Corp.*, 722 F.2d 1063, 1070 (2d Cir. 1983)); *see also In re Wilde Horse Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). Under this “business judgment” test, the bankruptcy court “independently” determines “only whether the trustee’s judgment was reasonable and whether a sound business justification exists supporting the sale and its terms.” 3 Collier on Bankruptcy P 363.02[4] (16th 2022).

The sale of the Property will be at a fair market price because the best determination of the price is the market, and the sale is subject to overbids (with an auction to be held in Court). In this case, the sale of the Property will result in the Estate receiving the Investor Carve-Out and Broker Carve-Out totaling **\$41,854.16**. The liens and encumbrances will be paid through the sale of the Property as follows:

<b>Sale Price</b>	<b>\$415,000.00</b>
<i>Less</i> estimated costs of sale (estimated 2% for costs of sale and real estate broker commission of 6%, for a total of 8%)	(\$33,200.00)
<i>Less</i> estimated property taxes (including defaulted taxes and pro-rata current taxes) (estimated).	(\$4,758.40)
<i>Less</i> payoff to Investor Creditors (\$419,298.88 through June 30, 2023; \$377,041.60 remains after costs of sale of property taxes) (90% of Investor Creditors’ payoff)	(\$339,337.44)
<i>Less</i> Investor Carve-Out (10% of Investor Creditors’ payoff)	(\$37,704.16)
<i>Less</i> estimated payoff for Jilanchi Lien	(\$0.00)
	<b>\$0.00</b>

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1 The facts surrounding the sale of the Property supports a sound business justification exists  
2 supporting the sale of the Property and its terms. The sale of the Property ensures the secured  
3 creditors, which are creditors of the Debtor, will receive some payment on account of their liens.  
4 The sale of the Property also ensures that the Estate receives funds to defray the fees and expenses  
5 associated with the marketing and sale of the Property pursuant to the Preliminary Injunction. Thus,  
6 good cause exists to grant the Motion.

7 **C. The Trustee is Authorized to Execute Any and All Documents Convenient and**  
8 **Necessary for the Sale of the Property Consistent with the Preliminary Injunction.**

9 Paragraph 12 of the Preliminary Injunction provides as follows:

10 In the Trustee's discretion and business judgment, the Trustee is  
11 expressly permitted to actively market for sale the Affiliate or Insider  
12 Real Property, and take all steps necessary and convenient to market  
13 and consummate the sale of any Affiliate or Insider Real Property,  
14 including execution of documents; provided, however that the  
Trustee's sale of any Affiliate or Insider Real Property is expressly  
conditioned upon such sale being the subject of a noticed motion and  
resulting Court order.

15 Further, paragraph 16 of the Preliminary Injunction states: "For the avoidance of doubt, the  
16 Trustee shall have final authority regarding the sale or other disposition of any of the Enjoined  
17 Property, and approval of any sale or disposition of the Enjoined Property must be expressly  
18 approved by the Trustee in writing prior to closing or consummating such a transaction, or otherwise  
19 authorized by Court order." Despite the disjunctive requirement of Paragraph 16 of the Preliminary  
20 Injunction (*i.e.* Trustee's approval in writing or Court order), out of an abundance of caution, the  
21 Trustee requests Court authority to execute any and all documents convenient and necessary to  
22 consummate the sale of the Property consistent with the Preliminary Injunction, including any  
23 document(s) whereby the Trustee expressly consents to closing on the sale of the Property.

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1 The Court may authorize the Trustee to execute any and all documents convenient and  
2 necessary to consummate the sale of the Property consistent with the Preliminary Injunction under  
3 11 U.S.C. § 105(a) which provides: “The court may issue any order, process, or judgment that is  
4 necessary or appropriate to carry out the provisions of this title.” See 11 U.S.C. § 105. Section 105  
5 sets out the power of the bankruptcy court to fashion orders as necessary pursuant to the purposes  
6 of the Bankruptcy Code. *In re Chinichian*, 784 F.2d 1440, 1443 (9th Cir. 1986). See also, *In re*  
7 *Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983) (bankruptcy judge must have substantial freedom  
8 to tailor his orders to meet differing circumstances).

9 As such, the Trustee requests the Court authorize the Trustee to execute any and all  
10 documents convenient and necessary to consummate the sale of the Property consistent with the  
11 Preliminary Injunction, including any document(s) whereby the Trustee expressly consents to  
12 closing on the sale of the Property.

13 **D. The Proposed Sale May be Allowed Free and Clear of Liens.**

14 The Trustee believes that the sale of the Property will be consensual. To the extent that the  
15 Trustee does not get consent as expected, the Trustee requests that the Court authorize the sale of  
16 the Property free and clear of liens and encumbrances. A court of equity has the power to order the  
17 sale of property free and clear of liens and encumbrances. See *City of Riverside v. Horspool*, 223  
18 Cal. App. 4th 670, 684 (2014)(citing to *Spreckels v. Spreckels Sugar Corp.*, 79 F.2d 332, 334 (2d  
19 Cir. 1935) and *Miners’ Bank of Wilkes-Barre v. Acker*, 66 F.2d 850, 853 (3<sup>rd</sup> Cir. 1993)). Such  
20 power has long been exercised by federal courts sitting in equity when ordering sales by receivers  
21 or on foreclosure. See *Van Huffel v. Harkelrode*, 284 U.S. 225, 227 (1931). The Trustee believes  
22 that, in the interest of justice, he should be able to sell the Property free and clear of liens and  
23 encumbrances if doing so is required to ensure that the sale promptly closes on the Property.

24 Therefore, out of an abundance of caution, to the extent there are unresolved liens at closing,  
25 the Trustee requests authority to sell the Property free and clear of liens, with liens not satisfied  
26 through the sale to attach to the sale proceeds in the same validity and priority as prior to the closing  
27 of the sale.

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1 **IV. CONCLUSION**

2 **WHEREFORE**, based on the foregoing, the Trustee respectfully submits that good cause  
3 exists to grant the Motion and requests that the Court enter an order as follows:

4 1. Confirming the sale of the Property on an as-is, where-is basis, without any  
5 warranties or representations, to the Buyer (or Successful Bidder) pursuant to the terms and  
6 conditions as set forth in the Agreement attached as **Exhibit “4”** to the Marshack Declaration  
7 comports with the Preliminary Injunction Entered in the Insider Action.

8 2. Authorizing the sale of the Property free and clear of liens, with liens not satisfied  
9 through the sale to attach to the sale proceeds in the same validity and priority as prior to the closing  
10 of the sale.

11 3. Authorizing the Trustee to execute any and all documents convenient and necessary  
12 to consummate the sale of the Property consistent with the Agreement and Preliminary Injunction,  
13 including but not limited to the Agreement and any amendments thereto, any counter-offers, any  
14 document(s) whereby the Trustee expressly consents to closing on the sale of the Property, any and  
15 all conveyances contemplated by the Agreement attached as **Exhibit “4”** to the Marshack  
16 Declaration, any beneficiary demand statements, and any deeds of reconveyance (if needed).

17 4. Authorizing the Trustee and/or A&A Escrow (Antonia Delgado) to pay all  
18 reasonable costs of sale through escrow on the sale of the Property: (i) all real property taxes, (iii)  
19 escrow fees, title insurance, and other costs of sale to be split between the Buyer and the Estate in  
20 the manner customary in Riverside County, California, (iii) real estate commission not to exceed  
21 six percent (6%), (iv) all amounts owed to the Investor Creditors (as agreed upon), and (v) all  
22 amounts owed to the Jilanchi Creditors (in the event there are overbids sufficient to result in funds  
23 to provide a payment).

24 5. Directing that any net proceeds from the sale shall be paid to and held by the Trustee  
25 in a segregated account as provided by paragraph 17 of the Preliminary Injunction.

26 6. Authorizing the Trustee to deposit the Investor Carve-Out and Broker Carve-Out,  
27 which shall constitute property of the Estate, in the Estate’s general operating account.

8. For such other and further relief as the Court deems just and proper under the circumstances of this case.

**SHULMAN BASTIAN FRIEDMAN & BUI LLP**

By: /s/ Rika M. Kido  
James C. Bastian, Jr.  
Ryan D. O'Dea  
Rika M. Kido  
Special Counsel for Richard A. Marshack,  
Chapter 7 Trustee for the bankruptcy estate of  
AB Capital LLC, Case No. 8:22-bk-11585-TA

**DECLARATION OF RICHARD A. MARSHACK**

I, Richard A. Marshack, declare and state as follows:

1. The matters stated here are true and correct and within my personal knowledge. If called as a witness, I could and would competently testify thereto. I am the duly appointed, qualified and acting Chapter 7 trustee for the bankruptcy estate (“Estate”) of AB Capital, LLC, Case No. 8:22-bk-11585-TA.

2. I make this Declaration in support of my *Motion For Order: (1) Confirming the Sale of Real Property Owned by Debtor’s Affiliate, Subject to Overbid, Comports With the Preliminary Injunction Entered in Adversary Proceeding; (2) Authorizing the Trustee to Execute Any and All Documents Convenient and Necessary to the Sale; and (3) Granting Related Relief* (“Motion”). Unless otherwise noted, capitalized terms in this Declaration have the meaning set forth in the Motion.

3. On November 30, 2022, the Court issued a Preliminary Injunction in the Insider Action, a true and correct copy of which is attached hereto as **Exhibit “1”**.<sup>13</sup>

4. The sale of the Property is not property of the Estate. The Property is owned by the Pukini Trust, which is an affiliate of the Debtor, a Defendant in the Insider Action, and an Enjoined Party to the Preliminary Injunction. Pursuant to Paragraph 12 of the Preliminary Injunction, in my discretion and business judgment, I was expressly permitted to actively market real properties owned by Debtor’s Insiders and Affiliates, including the Property, for sale and take all steps necessary and convenient to market and consummate the sale of such properties.

5. Attached hereto as **Exhibit “3”** is a true and correct copy of the Updated Title Report dated January 11, 2023 for the Property.

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<sup>13</sup> On June 2, 2023, the Order Approving Stipulation to Extend Term of Preliminary Injunction was entered in the Insider Action (“PI Extension Order”). Pursuant to the PI Extension Order, the term of the Preliminary Injunction is extended up to and including February 28, 2024. Further, on June 7, 2023, the Order Approving the Stipulation to Extend Term of Preliminary Injunction to Include and Bind the Joshua R. Pukini Trust Dated June 27, 2023 was entered in the Insider Action (“PI Pukini Extension Order”). True and correct copy of the PI Extension Order and the PI Pukini Extension Order are attached hereto as **Exhibit “2”**.

1           6.       I have received an offer to purchase the Property from Christopher A. Whitham or  
2 his assignee (collectively the “Buyer”), for \$415,000.00, subject to overbids. A true and correct  
3 copy of the Residential Purchase Agreement and Joint Escrow Instructions and its addenda  
4 (collectively the “Agreement”) is attached hereto as **Exhibit “4”**.

5           7.       Pursuant to the Borrower’s Final Settlement Statement dated April 29, 2022 (“Final  
6 Settlement Statement”), the Stephen Fields DOT was rolled over into the Investors DOT (defined  
7 below). Attached hereto as **Exhibit “5”** is a true and correct copy of the Final Settlement Statement.

8           8.       Pursuant to a loan payoff for the Investors DOT, which assumes closing takes place  
9 on June 30, 2023, the total payoff amount (including principal, interest, late fees, and loan charges)  
10 is \$419,298.88 (“Investor Creditors Payoff”). Attached hereto as **Exhibit “6”** is a true and correct  
11 copy of the Investor Creditors Payoff.

12           9.       In order to assist me in defraying the fees and expenses associated with the marketing  
13 and sale of the Property pursuant to the Preliminary Injunction, the Investor Creditors have agreed  
14 to carve-out and assign a ten percent (10%) distribution to the Estate in the sum of approximately  
15 \$37,704.16 to be paid at closing (“Investor Carve-Out”).<sup>14</sup>

16           10.      The sale of the Property will result in the Estate receiving the Investor Carve-Out  
17 and Broker Carve-Out totaling \$41,854.16.

18           11.      The offer from the Buyer is the best offer received for the Property. I believe that  
19 the proposed sale, subject to overbids, will be at fair market value because the market itself, not  
20 hypothetical appraisals of the market, are the best determinant of value. Given that the sale is subject  
21 to overbids, it is anticipated the sale will result in the highest value for the Property and the proposed  
22 sale price is fair and reasonable.

23 ///

24 ///

25 ///

26

27

28 <sup>14</sup> In the event the purchase price for the Property is increased by a successful overbid, the ten percent (10%) distribution  
to the Trustee will also increase until the Investor Creditors are paid in full (minus the Investor Carve-Out).

1           12. For the reasons set forth in Sale Motion and this Declaration, I believe there is a  
2 sound business justification for the sale which complies with the requirements of the Preliminary  
3 Injunction. I respectfully request that the Court grant the Motion so that I do not lose this favorable  
4 opportunity to provide a benefit to the Estate.

5           I declare under penalty of perjury under the laws of the United States of America that the  
6 facts set forth herein are true and correct. Executed on June <sup>17</sup>, 2023.

7   
8 Richard A. Marshack

**DECLARATION OF CLARENCE YOSHIKANE**

I, Clarence Yoshikane, declare as follows:

1. I am a licensed real estate agent in the State of California and associated with BHHS / Berkshire Hathaway HomeServices California Properties. I am over 18 years of age and I have personal knowledge of the facts set forth herein and could, if called as a witness, competently testify thereto. I am also personally familiar with the real property referenced in this Declaration and that is the subject of the Motion.

2. I make this Declaration in support of the *Chapter 7 Trustee's Motion For Order: (1) Confirming the Sale of Real Property Owned by Debtor's Affiliate, Subject to Overbid, Comports With the Preliminary Injunction Entered in Adversary Proceeding; (2) Authorizing the Trustee to Execute Any and All Documents Convenient and Necessary to the Sale; and (3) Granting Related Relief* ("Motion"). Unless otherwise noted, capitalized terms in this Declaration have the meaning set forth in the Motion.

3. On May 26, 2023, the Court entered an Order authorizing the employment of the BHHS/Berkshire Hathaway HomeServices California Properties ("Broker") to assist the Trustee with the marketing and sale of the Property [Docket No. 224]. The Broker has agreed that its commission for the Property will not exceed six percent (6.0%) of the total purchase price of the Property, to be split as agreed upon by the Broker and buyer's agent, with 1.0% of the total purchase price of the Property carved out and assigned to the Estate ("Broker Carve-Out") in order to assist the Trustee with defraying the fees and expenses associated with the marketing and sale of the Property pursuant to the Preliminary Injunction.

4. The Broker has marketed the Property across multiple channels for over two months. The Broker prepared a comprehensive marketing package and contacted potential buyers by telephone, email, and hard mail, in addition to listing the Property on the MLS. Since the Property was listed, there have been twelve (12) agent calls and five (5) buyer calls.

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Clarence Yoshikane

**DECLARATION OF RIKA M. KIDO**

I, Rika M. Kido, declare as follows:

1. I am a partner with the law firm of Shulman Bastian Friedman & Bui LLP, special litigation counsel for Richard A. Marshack, Chapter 7 trustee for the bankruptcy estate of AB Capital, LLC . I am an attorney at law licensed to practice before the Courts for the Central District of California and if called upon to do so, I could and would competently testify as to the facts contained herein as they are personally known to me to be true.

2. I am familiar with the Debtor's bankruptcy proceeding, as well as the adversary action, *Marshack v. Pukini, et al.*, Adv. Case No. 8:22-ap-01091-TA, and make this Declaration in support of the *Chapter 7 Trustee's Motion For Order: (1) Confirming the Sale of Real Property Owned by Debtor's Affiliate, Subject to Overbid, Comports With the Preliminary Injunction Entered in Adversary Proceeding; (2) Authorizing the Trustee to Execute Any and All Documents Convenient and Necessary to the Sale; and (3) Granting Related Relief* ("Motion"). Unless otherwise noted, capitalized terms in this Declaration have the meaning set forth in the Motion.

3. I provided a copy of this Motion to Mr. Naujock, in his capacity as the successor trustee for the Pukini Trust, and the Pukini Trust's counsel. Mr. Naujock has confirmed, via email correspondence on June 7, 2023, that he does not object to the sale of the Property.

I declare under penalty of perjury under the laws of the United States of America that the facts set forth herein are true and correct.

Executed at Irvine, California on June 9, 2023.

/s/ Rika M. Kido  
Rika M. Kido

**Exhibit 1**

**Preliminary Injunction**

James C. Bastian, Jr. - Bar No. 175415  
Ryan D. O'Dea - Bar No. 273478  
Eric P. Francisconi - Bar No. 172102  
Shane M. Biornstad - Bar No. 250202  
**SHULMAN BASTIAN FRIEDMAN & BUI LLP**  
100 Spectrum Center Drive, Suite 600  
Irvine, CA 92618  
Telephone: (949) 340-3400  
Facsimile: (949) 340-3000  
Email: JBastian@shulmanbastian.com  
ROdea@shulmanbastian.com  
EFrancisconi@shulmanbastian.com  
SBiornstad@shulmanbastian.com

Proposed Special Litigation Counsel for  
Richard A. Marshack, Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION**

In re

**AB CAPITAL, LLC., a California limited  
liability company,**

Debtor.

**RICHARD A. MARSHACK, Chapter 7  
Trustee,**

Plaintiff,

vs.

**JOSHUA R. PUKINI, individually and as  
trustee of The Joshua R. Pukini Trust dated  
June 27, 2013; RYAN YOUNG, individually  
and as trustee of The Young Family Trust  
dated August 24, 2014, The Ryan J. Young  
Trust and The Young Ryan Trust; EDMUND  
VALASQUEZ, JR., an individual; 108  
AVENIDA SERRA, LLC, a California  
limited liability company; 1034 W BALBOA,  
LLC, a California limited liability company;  
31831 SUNSET LLC, a California limited  
liability company; AB CAPITAL FUND A,  
LLC, a California limited liability company;  
AB CAPITAL FUND B, LLC, a California  
limited liability company; AB CAPITAL  
HOLDINGS I, LLC, a California limited  
liability company; AB CAPITAL LFD, INC.,  
a California corporation; ABC 2260 SAN**

**FILED & ENTERED**

**NOV 30 2022**

**CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY deramus DEPUTY CLERK**

Case No.: 8:22-bk-11585-TA

Chapter 7 (Involuntary)

Adv. Case No. 8:22-ap-01091-TA

**PRELIMINARY INJUNCTION**

YSIDRO LLC, a California limited liability company; BDP DEVELOPMENT PARTNERS, LLC, a California limited liability company; CAL-PAC DISTRESSED REAL ESTATE FUND I, LLC, a California limited liability company; CALPAC MANAGEMENT, INC., a California corporation; CALPAC MORTGAGE FUND, LLC, a California limited liability company; LIVING ART WORKS LLC, a California limited liability company; LUNA CONSTRUCTION MANAGEMENT, LLC, a California limited liability company; TABLEROCK ENTERPRISES, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

1 On October 21, 2022, a hearing (the “Hearing”) was held on the motion (the “Motion”) of  
2 Richard A. Marshack, as Chapter 7 Trustee of the bankruptcy estate of AB Capital, LLC (“Trustee”),  
3 for issuance of a temporary restraining order (“TRO”) and preliminary injunction (“Preliminary  
4 Injunction”), seeking, among other things, to enjoin Joshua R. Pukini, individually and as trustee of  
5 The Joshua R. Pukini Trust dated 6/27/2013; Ryan Young, individually and as trustee of The Young  
6 Family Trust dated 8/24/2014, the Ryan J. Young Trust, and the Young Ryan Trust; Edmund  
7 Valasquez, Jr.; 108 Avenida Serra, LLC; 1034 W Balboa, LLC; 31831 Sunset LLC; AB Capital  
8 Fund A, LLC; AB Capital Fund B, LLC; AB Capital Holdings I, LLC; AB Capital LFD, Inc.; ABC  
9 2260 San Ysidro LLC; BDP Development Partners, LLC; Cal-Pac Distressed Real Estate Fund I,  
10 LLC; Calpac Management, Inc.; CalPac Mortgage Fund, LLC; Living Art Works LLC; Luna  
11 Construction Management, LLC; and Tablerock Enterprises, LLC (“Defendants”) from diverting,  
12 secreting, hiding, wasting, spending, appropriating, subverting or transferring assets derived from  
13 or related to debtor AB Capital, LLC (“Debtor”) in their possession, custody, or control, the  
14 Honorable Theodor C. Albert presiding. On October 24, 2022, the Court entered the TRO, reflected  
15 as Docket Number 21 in the above-captioned adversary action, which was stipulated and agreed to  
16 by defendants Josh Pukini and Ryan Young.

17 Having considered the Motion, all evidence submitted by Trustee, the parties’ oral argument  
18 at the Hearing, Josh Pukini’s and Ryan Young’s stipulation for entry of the TRO and their stipulation  
19 to the terms of this Preliminary Injunction, and good cause appearing,

20 It is hereby **ORDERED**:

21 1. The Motion seeking a Preliminary Injunction is granted, as modified and provided  
22 herein.

23 2. Subject to Paragraphs 4 through 7 below, Defendants, and any entity, affiliate, or  
24 subsidiary owned or controlled in whole or in part by Defendants (collectively, the “Enjoined  
25 Parties”) are enjoined from selling, encumbering, transferring, diverting, secreting, hiding, wasting,  
26 spending, appropriating, collecting, compromising (including collecting amounts due under any  
27 notes or other instruments or entering into any settlement or compromise) or subverting any asset,

1 including bank or brokerage accounts, of any kind owned or controlled, in whole or in part, by any  
2 of the Enjoined Parties (the “Enjoined Property”) from November 30, 2022 through May 1, 2023  
3 (the “Injunction Period”) without the express written consent of the Trustee or further order of the  
4 court.

5 3. The Enjoined Property includes, but is not limited to the following:

6 (i) Any and all personal property, real property or interests in real property, held or owned,  
7 directly or indirectly by or for the benefit of Debtor, including but not limited to the following: 8018  
8 La Milla, Rancho Santa Fe, CA 92067; 1314 Sunset Plaza Drive, Los Angeles, CA 90069; 322  
9 Broadway, Oakland, CA 94607; and 444 Museum Drive, Los Angeles, CA 90066 (the “Debtor’s  
10 Real Property”);

11 (ii) Any and all liens, notes, deeds of trust, assignments or security interests related to or  
12 securing repayment of any loan, note, or any other obligation of any kind (collectively “Liens”),  
13 held directly or indirectly by or for the benefit of Debtor including but not limited to Liens related  
14 to the following real property: 2260 San Ysidro Drive, Los Angeles, CA 90210 (2nd DOT); 437 E.  
15 5th Street, Long Beach, CA 90802 (1st DOT); 1611 Cliff Drive, Newport Beach, CA 92663 (2nd  
16 DOT); 1312 Beverly Grove Place, Beverly Hills, CA 90210 (2nd DOT); 7 Makena Lane, Rancho  
17 Mirage, CA 92270 (2nd DOT); and 8018 La Milla, Rancho Santa Fe, CA 92067 (1st DOT) (the  
18 “Debtor’s Lien Interests”);

19 (iii) Any and all personal property, real property, or interests in real property, held, directly  
20 or indirectly, in the name or for the benefit of Debtor’s affiliates or insiders including but not limited  
21 to the following: 1034 W. Balboa Boulevard, Newport Beach, CA 92661; 108 Avenida Serra, San  
22 Clemente, CA 92672; 31831 Sunset Avenue, Laguna Beach, CA 92651; 1 Makena Lane, Rancho  
23 Mirage, CA 92270; 2 Makena Lane, Rancho Mirage, CA 92270; 4 Makena Lane, Rancho Mirage,  
24 CA 92270; 5 Makena Lane, Rancho Mirage, CA 92270; 7 Makena Lane, Rancho Mirage, CA  
25 92270; 2260 San Ysidro Drive, Los Angeles, CA 90210; 3301 Coldwater Canyon Avenue, Studio  
26 City, CA 91604; 530 Alta Vista Way, Laguna Beach, CA 92651; 1312 Beverly Grove Place, Beverly  
27 Hills, CA 90210; 501 S. Olive Street, Anaheim, CA 92805; 109 Rivo Alto Canal, Long Beach, CA

1 90803; 170 N. Circulo Robel, Anaheim, CA 92807; 20620 Manzanita Avenue, Yorba Linda, CA  
2 92886; 5578 Avenida Adobe, Yorba Linda, CA 92886; 5632 Campo Walk, Long Beach, CA 90803;  
3 7890 East Berner Street, Long Beach, CA 90808; and 38861 Elmwood Drive, Rancho Mirage, CA  
4 92270; 2826-041-022, Los Angeles County, CA; 112 22nd Street, Newport Beach, CA 92663; and  
5 7900 E. Cramer Street, Long Beach, CA 90808 (the “Affiliate or Insider Real Property Interests”).

6 (iv) Any and all liens, notes, deeds of trust, assignments or security interests related to or  
7 securing repayment of any loan, note, or any other obligation of any kind (collectively “Liens”) held  
8 directly or indirectly by or for the benefit of any affiliate or insider of the Debtor, including but not  
9 limited to Liens related to the following real property: 437 E. 5th Street, Long Beach, CA 90802;  
10 and 7 Makena Lane, Rancho Mirage, CA 92270 (the “Affiliate or Insider Lien Interests”);

11 (v) Any and all ownership interest, including stock, partnership or membership interests,  
12 held directly or indirectly by or for the benefit of the Debtor in any entity (“Debtor’s Ownership  
13 Interests”);

14 (vi) Any and all ownership interest, including stock, partnership or membership interests,  
15 held directly or indirectly by or for the benefit of any affiliate or insider of the Debtor (“Affiliate or  
16 Insider Ownership Interests”);

17 (vi) Debtor’s hardcopy and electronic books and records, including those removed from  
18 Debtor’s corporate office (“Debtor’s Records”);

19 (vii) Hardcopy and electronic books and records of any affiliate or insider (“Affiliate or  
20 Insider Records”);

21 (viii) Original notes, construction loan related documents and other documents or  
22 instruments evidencing or related to any right to payment in favor of Debtor (“Debtor Notes and  
23 Other Instruments”) or any of Debtor’s insiders or affiliates (“Insider Notes and Other  
24 Instruments”);

25 (ix) Any and all claims, causes of action or rights to proceed with legal or equitable action  
26 or process held by or for the benefit of the Debtor (“Debtor Claims”);

(x) Any and all claims, causes of action or rights to proceed with legal or equitable action or process held by or for the benefit of any affiliate or insider of the Debtor, including those identified on **Exhibit A** affixed to this Preliminary Injunction (“Affiliate or Insider Claims”); and

(xi) Construction documents, contracts, bids, keys, access codes, plans, permits, entitlements, governmental approvals, certificates of occupancy, licenses, or other form of authorization or approval issued by a government agency or authority and legally required for the construction ownership, operation, and use of the Enjoined Property (“Construction Documents”),

4. Subject to a monthly budget provided to the Trustee, defendant Ryan Young shall be permitted to utilize up to \$35,000.00 (the “Young Monthly Budget”), derived from of his personal funds and/or derived from defendant Tablerock Enterprises, LLC (“Tablerock”), for his ordinary and reasonable costs of living and legal expenses during the Injunction Period. As a condition precedent to being entitled to the Young Monthly Budget, defendant Ryan Young must prepare and provide to the Trustee, a report (the “Young Report”) identifying the anticipated source(s) of funds comprising the Young Monthly Budget. If defendant Ryan Young or his wife receive funds in a given month from sources not identified in the Young Report, defendant Ryan Young shall disclose to the Trustee the source of any such funds that he or his wife receive within fourteen (14) days of receipt; absent objection from the Trustee, such funds shall not be subject to this Preliminary Injunction (the “Non-Enjoined Funds”). To the extent there is a disagreement between the Trustee and defendant Ryan Young over whether funds constitute Non-Enjoined Funds, defendant Ryan Young may present such dispute to the Court on 72 hours’ notice, if necessary. To the extent defendant Ryan Young requires funds in addition to the Young Monthly Budget for the purpose of paying state and/or federal taxes, Mr. Young may request a temporary increase of the Young Monthly Budget solely to satisfy his tax liability (the “Young Temporary Increase”). As a condition precedent to being entitled to the Young Temporary Increase: (1) defendant Ryan Young shall provide the Trustee with appropriate documentation supporting the tax liability necessitating the Young Temporary Increase; and (2) the Trustee must approve, in writing, the Young Temporary Increase – approval which shall not unreasonably be withheld.

1           5.       The Trustee has agreed that this Preliminary Injunction shall not apply to Ryan  
2 Young's personal residence at 31522 Bluff Drive, Laguna Beach, CA 92651 (the "Young  
3 Residence") or any proceeds derived from the Young Residence during the Injunction Period  
4 conditioned upon Mr. Young's agreement to not sell, transfer, or encumber the Young Residence  
5 during the Injunction Period; without prejudice to the Trustee seeking to include the Young  
6 Residence as part of the Enjoined Property.

7           6.       Subject to a monthly budget provided to the Trustee, defendant Josh Pukini shall be  
8 permitted to utilize up to \$35,000.00 (the "Pukini Monthly Budget"), derived from of his personal  
9 funds for his ordinary and reasonable costs of living and legal expenses during the Injunction Period.  
10 As a condition precedent to being entitled to the Pukini Monthly Budget, defendant Josh Pukini  
11 must prepare and provide to the Trustee, a report (the "Pukini Report") identifying the anticipated  
12 source(s) of funds comprising the Pukini Monthly Budget. If defendant Josh Pukini receives funds  
13 in a given month from sources not identified in the Pukini Report, defendant Josh Pukini shall  
14 disclose to the Trustee the source of any such funds that he receives within fourteen (14) days of  
15 receipt; absent objection from the Trustee, such funds shall not be subject to this Preliminary  
16 Injunction (the "Non-Enjoined Funds"). To the extent there is a disagreement between the Trustee  
17 and defendant Josh Pukini over whether funds constitute Non-Enjoined Funds, defendant Josh  
18 Pukini may present such dispute to the Court on 72 hours' notice, if necessary. To the extent  
19 defendant Josh Pukini requires funds in addition to the Pukini Monthly Budget for the purpose of  
20 paying state and/or federal taxes, Mr. Pukini may request a temporary increase of the Pukini  
21 Monthly Budget solely to satisfy his tax liability (the "Pukini Temporary Increase"). As a condition  
22 precedent to being entitled to the Pukini Temporary Increase: (1) defendant Josh Pukini shall  
23 provide the Trustee with appropriate documentation supporting the tax liability necessitating the  
24 Pukini Temporary Increase; and (2) the Trustee must approve, in writing, the Pukini Temporary  
25 Increase – approval which shall not unreasonably be withheld.

26           7.       Subject to a monthly budget provided to the Trustee, defendant Edmund Valasquez,  
27 Jr. shall be permitted to utilize up to \$25,000.00 (the "Valasquez Monthly Budget") and, together

1 with the Young Monthly Budget and the Valasquez Monthly Budget, the “Monthly Budgets”),  
2 derived from of his personal funds for his ordinary and reasonable costs of living and legal expenses  
3 during the Injunction Period. As a condition precedent to being entitled to the Valasquez Monthly  
4 Budget, defendant Edmund Valasquez must prepare and provide to the Trustee, a report the  
5 “Valasquez Report”) identifying the anticipated source(s) of funds comprising the Valasquez  
6 Monthly Budget. If defendant Edmund Valasquez receives funds in a given month from sources  
7 not identified in the Valasquez Report, defendant Edmund Valasquez shall disclose to the Trustee  
8 the source of any such funds that he receives within fourteen (14) days of receipt; absent objection  
9 from the Trustee, such funds shall not be subject to this Preliminary Injunction (the “Non-Enjoined  
10 Funds”). To the extent there is a disagreement between the Trustee and defendant Edmund  
11 Valasquez over whether funds constitute Non-Enjoined Funds, defendant Edmond Valasquez may  
12 present such dispute to the Court on 72 hours’ notice, if necessary. To the extent defendant Edmund  
13 Valasquez requires funds in addition to the Valasquez Monthly Budget for the purpose of paying  
14 state and/or federal taxes, Mr. Valasquez may request a temporary increase of the Valasquez  
15 Monthly Budget solely to satisfy his tax liability (the “Valasquez Temporary Increase”). As a  
16 condition precedent to being entitled to the Valasquez Temporary Increase: (1) defendant Edmund  
17 Valasquez shall provide the Trustee with appropriate documentation supporting the tax liability  
18 necessitating the Valasquez Temporary Increase; and (2) the Trustee must approve, in writing, the  
19 Valasquez Temporary Increase – approval which shall not unreasonably be withheld.

20 8. All deadlines to answer or respond to the complaint in this adversary action are  
21 stayed during the Injunction Period. The Court may schedule and hold periodic status conferences  
22 in the adversary action, but will not issue a scheduling order during the Injunction Period.

23 9. Subject to the terms and conditions set forth in paragraphs 11 through 15 below,  
24 Defendants shall cooperate with, report to and take advice and direction from the Trustee and his  
25 agents, counsel and representatives as necessary in the Trustee’s discretion in: (a) marketing, selling  
26 and managing the Enjoined Property; (b) collecting on notes constituting the Enjoined Property; (c)  
27 pursuing foreclosure remedies associated with the Enjoined Property; and (d) taking any other

1 actions that are reasonably necessary to monetize the Enjoined Property for the benefit of the estate  
2 and creditors (all of which shall be referred to herein as the “Cooperation Activities”).

3 10. Subject to the terms of that certain Stipulated Protective Order affixed hereto as  
4 **Exhibit B**,<sup>1</sup> Defendants are required to turn over all documents and information to the Trustee as  
5 necessary for the Trustee to administer Debtor’s estate or that which is necessary to the marketing,  
6 sale, collection or taking any other activities necessary to preserve or realize value from the Enjoined  
7 Property – including but not limited to turnover of copies of all bank statements for any bank account  
8 held or controlled by Defendants for the last two (2) years, access<sup>2</sup> to any and all bank accounts held  
9 or controlled by Defendants, Notes and Other Instruments (including any copies of same), Debtor  
10 Records, Construction Documents, Affiliate or Insider Records and turnover of any and all  
11 documents related to and necessary or convenient to determine the value and disposition of any  
12 Enjoined Property, including any document referenced in or related to the Enjoined Property  
13 described in Paragraph 3 above. To the extent, after Defendants’ good faith efforts, Defendants are  
14 not able to provide the Trustee with electronic access to any bank account(s) held or controlled by  
15 Defendants, , no later than the 10<sup>th</sup> day of each month, Defendants shall provide the Trustee with  
16 account statements for any and all bank accounts held or controlled by Defendants (where electronic  
17 access has not been provided to the Trustee). To the extent the ending balance for any account has  
18 changed from the prior month’s ending balance, other than the accounts from which the Monthly  
19 Budgets are funded, Defendants shall provide the Trustee with all information necessary for the  
20 Trustee to determine the basis for the change, which may include a copy of the full prior month’s  
21 bank statement. To the extent the accounts from which the Monthly Budgets are funded have  
22 decreased by an amount more than the allowed Monthly Budgets, Defendants shall, upon the

23  
24 <sup>1</sup> The Stipulated Protective Order will be separately filed and lodged with the Court for approval.

25 <sup>2</sup> “Access” does not mean, and shall not be interpreted to mean or include, the Trustee’s ownership  
26 or control over any bank account held or controlled by Defendants. For the sake of clarity, “access”  
27 for purposes of Paragraph 10 of this Preliminary Injunction shall mean electronic or hardcopy access  
28 to any and all bank records and banking activity associated with bank accounts owned or controlled  
by Defendants.

1 Trustee's request, immediately provide the Trustee with all information necessary to evaluate and  
2 determine the use of such proceeds.

3 11. Defendants shall be enjoined from interfering<sup>3</sup> with, or taking steps of any kind to  
4 impair, the Trustee's ability: (a) to market and sell the Debtor Real Property; (b) to collect payments  
5 due and owing under any Debtor Notes or Other Instruments; (c) to collect payments due and owing  
6 under any Insider Notes or Other Instruments, subject to any such payments being held in a  
7 segregated account by the Trustee subject to any claims, rights, or defenses asserted by Defendants,  
8 including but not limited to the right of Defendants to seek to use a portion of such payments to  
9 fund, in part, the Monthly Budgets; (d) enforcing the Debtor's Lien Interests; (e) enforcing the  
10 Affiliate or Insider Lien Interests, subject to any Net Proceeds from such enforcement activity being  
11 held in a segregated account by the Trustee subject to any claims, rights, or defenses asserted by  
12 Defendants; or (f) realize value for or on account of any Enjoined Property. To the extent there is  
13 any dispute over the Trustee's proposed action under this paragraph, any appropriate Defendant(s)  
14 may present such dispute to the Court on 72 hours' notice, if necessary.

15 12. In the Trustee's discretion and business judgment, the Trustee is expressly permitted  
16 to actively market for sale the Affiliate or Insider Real Property, and take all steps necessary and  
17 convenient to market and consummate the sale of any Affiliate or Insider Real Property, including  
18 execution of documents; provided, however that the Trustee's sale of any Affiliate or Insider Real  
19 Property is expressly conditioned upon such sale being the subject of a noticed motion and resulting  
20 Court order.

21 13. In the Trustee's discretion and business judgment, the Trustee: (a) is expressly  
22 permitted to collect payments due and owing under the Debtor Notes and Other Instruments; (b) is  
23 expressly permitted to collect payments due and owing under Insider Notes and Other Instruments  
24 and/or taking all steps necessary to enforce the Affiliate or Insider Lien Interests, subject to any such

25 <sup>3</sup> For purposes of this Preliminary Injunction: "Interfering" shall not mean, and shall not be  
26 interpreted to mean or include, Defendants seeking bankruptcy court relief to resolve any dispute  
27 regarding any term or provision of this Preliminary Injunction. Similarly, "interfering" shall not  
28 mean or include Defendants' opposition to any motion filed by the Trustee regarding a dispute over  
any term or provision of this Preliminary Injunction.

1 payments being held in a segregated account by the Trustee subject to any claims, rights, or defenses  
2 asserted by Defendants; (c) to exercise foreclosure rights related to the Affiliate or Insider Lien  
3 Interests; and (d) compromise or settle any Affiliate or Insider Claims without further order of the  
4 Court so long as the Trustee provides Defendants with a minimum of fourteen (14) days' notice of  
5 his intention to do so; provided however that the Trustee may seek Court approval of these actions  
6 as he deems necessary or appropriate in his discretion. To the extent there is any dispute over the  
7 Trustee's proposed action under this paragraph, any appropriate Defendant(s) may present the  
8 dispute to the Court on 72 hours' notice, if necessary.

9       14. In the Trustee's discretion and business judgment, the Trustee is expressly permitted  
10 to take all steps necessary to monetize or realize value on account of Affiliate or Insider Ownership  
11 Interests. The Trustee's entry into a transaction to sell, monetize or realize value for Affiliate or  
12 Insider Ownership Interests is expressly conditioned upon such a sale being the subject of a noticed  
13 motion and resulting Court order.

14       15. Defendants shall be enjoined from interfering with, or taking steps of any kind to  
15 impair, the Trustee's ability: (a) to market for sale the Affiliate or Insider Real Property; (b) to  
16 collect payments due and owing under Notes or Other Instruments constituting or other obligations  
17 which are secured by Affiliate or Insider Lien Interests; (c) to exercise foreclosure or other  
18 enforcement rights related to the Affiliate or Insider Lien Interests; (d) monetize or realize value on  
19 account of Affiliate or Insider Ownership Interests; or (e) compromise or settle any Affiliate or  
20 Insider Claims. To the extent there is any dispute over the Trustee's proposed action under this  
21 paragraph, any appropriate Defendant(s) may present such dispute to the Court on 72 hours' notice,  
22 if necessary.

23       16. For the avoidance of doubt, the Trustee shall have final authority regarding the sale  
24 or other disposition of any of the Enjoined Property, and approval of any sale or disposition of the  
25 Enjoined Property must be expressly approved by the Trustee in writing prior to closing or  
26 consummating such a transaction, or otherwise authorized by Court order.

1           17. Any and all net proceeds resulting from sale, enforcement or other disposition of any  
2 Affiliate or Insider Real Property, Affiliate or Insider Lien Interests, Affiliate or Insider Claims or  
3 Affiliate or Insider Ownership Interests after payment of reasonable and ordinary closing costs,  
4 including reasonable brokerage commissions and valid encumbrances or in the case of Affiliate or  
5 Insider Claims, payment of reasonable attorneys' fees and costs incurred in relation thereto (but not  
6 including any administrative fees or costs of the Trustee or his professionals, which may only be  
7 paid upon entry of a final order of the bankruptcy court approving same), approved by the Trustee  
8 in his sole discretion (the "Net Proceeds"), shall be held in a segregated account by the Trustee  
9 subject to any claims, rights, or defenses asserted by Defendants.

10           18. In the Trustee's discretion and business judgment, and absent an agreement from the  
11 appropriate Defendant(s), the Parties recognize that the Trustee may apply to the court for  
12 permission to spend any cash constituting net sale proceeds from 108 Avenida Serra, San Clemente,  
13 California, any Net Proceeds, and any funds held in Defendants' bank accounts as reasonably  
14 necessary to cover the cost of insurance, repairs, or other items necessary to preserve the value of  
15 the Enjoined Property. To the extent such request cannot be made by way of stipulated agreement,  
16 the Trustee may file a motion seeking approval of such request with 72 hours' notice.

17           19. Should any term of this Preliminary Injunction be breached by any party, including  
18 but not limited breach of the Cooperation Activities, any non-breaching party may submit a  
19 declaration to the Court attesting to the breach and lodge an order with the Court seeking hearing  
20 on seventy-two (72) business hours' notice, subject to the availability of the Court.

21           20. This Preliminary Injunction is without prejudice to any claim or defense of the  
22 Trustee or Defendants. All rights of all parties are expressly reserved, including the right of the  
23 Trustee to seek an extension of the Injunction Period, expansion of the scope of this Preliminary  
24 Injunction or the issuance of a permanent injunction, and the rights of Defendants to challenge the  
25 scope of this Preliminary Injunction, the expansion of the scope of this Preliminary Injunction, or  
26 the issuance of a permanent injunction. In the event the Trustee files a motion to extend the  
27 Injunction Period or to expand the scope of this Preliminary Injunction, Defendants may oppose

1 such a motion. Nothing in this Preliminary Injunction shall constitute or be treated as a waiver of  
2 any argument, claim, or defense of Defendants in opposition to a motion to extend the Injunction  
3 Period or expand the scope of this Preliminary Injunction.. Should the Trustee file a motion to  
4 extend the Injunction Period or to expand the scope of this Preliminary Injunction, or in the event  
5 any Defendant files a motion seeking to modify or vacate all or portions of the Preliminary  
6 Injunction (“Motion to Modify or Vacate”), the burden of establishing the applicable elements  
7 necessary for preliminary injunctive relief shall be on the Trustee. However, in the event any  
8 Defendant intends to file a Motion to Modify or Vacate, such Defendant shall: (1) no less than seven  
9 (7) days prior to filing a Motion to Modify or Vacate, prepare and provide to the Trustee a written  
10 statement detailing the basis and grounds for the prospective motion; and (2) no less than three (3)  
11 days prior to filing a Motion to Modify or Vacate, meet and confer with the Trustee (telephonically,  
12 virtually, or physically) in good faith to resolve the dispute(s) underlying the prospective motion.  
13 Should the parties’ meet and confer efforts fail to resolve the dispute(s) and a Motion to Modify or  
14 Vacate be filed with the Court, Defendants and the Trustee agree to an expedited discovery  
15 schedule and the deadline for filing any opposition to the Motion to Modify or Vacate shall not be  
16 less than fourteen (14) days after the later of: (a) receipt of all Defendants’ discovery responses; (b)  
17 receipt of all Defendants’ production of documents; or (c) conclusion of any deposition noticed or  
18 subpoenaed by the Trustee.<sup>4</sup>

19 21. This Preliminary Injunction may be served on third-parties, including banks and  
20 escrow companies in contract with any of the Enjoined Parties, or in possession of any Enjoined  
21 Property, and that such third-parties are directed and authorized to interact exclusively with and take  
22 instruction from the Trustee or his authorized representatives in connection with any Enjoined Party  
23 or Enjoined Property as necessary to allow the Trustee and Defendants to comply with the terms of  
24 this Preliminary Injunction.

25  
26  
27 <sup>4</sup> In the event the Trustee does not propound discovery upon Defendants or any third-party, the  
28 deadline to oppose any Motion to Modify or Vacate shall not be less than twenty-one (21) days from  
the date such Motion to Modify or Vacate was filed with the Court.

22. The Trustee is not required to post a bond under Fed. R. Civ. Proc. 65 or Fed. R.  
Bankr. Proc. 7065.

23. A status conference regarding the Preliminary Injunction is scheduled for February  
16, 2023 at 11:00 a.m.

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Date: November 30, 2022



Theodor C. Albert  
United States Bankruptcy Judge

Case Information	Parties
Orange County Superior Court; 30-2022-01254450-CU-BC-CJC	Michael C. Vaupel; Lynda L. Roese-Vaupel, as individuals and Co-Trustees of the Vaupel Family Trust Dated March 6, 2008 as Amended and Restated February 16, 2010 v. AB Capital, LLC; Joshua Pukini; and Ryan J. Young
Orange County Superior Court; 30-2022-01244889-CU-BC-WJC	FCI Lender Services, Inc. v. AB Capital, LLC
Los Angeles County Superior Court; 22TRCV00066	Shoyinka Veronica Ogbeide v. AB Capital, LLC; Escrow Experts, Inc.; FCI Lenders Services Inc.
Orange County Superior Court; 30-2021-01236708-CU-WT-CJC	Cierra Taylor v. AB Capital, LLC; Luna Construction Management LLC; Joshua Pukini, individually and as trustee of The Joshua R. Pukini Trust; Calpac Mortgage Fund LLC; Calpac Management Inc., dba Cal Pac Capital
Orange County Superior Court; 30-2021-01199187-CU-BC-CJC	410 Twenty Ninth Streets LLC v. AB Capital LLC; Joshua R. Pukini; Ryan J. Young
Los Angeles County Superior Court; 22TRCV00321	Konstro Designs & Engineering Inc. v. AB Capital LLC; Escrow Experts Inc.; FCI Lender Services Inc.; Joshua Pukini; Ryan Young
Los Angeles County Superior Court; 21STCV14445	Mikayel Israyelyan; 14241 Ventura LLC v. AB Capital, LLC; Joshua R. Pukini; Ryan Young; Justin C. Johnson; Calpac Management, Inc.
United States Bankruptcy Court Central District of California - Los Angeles Division; 2:21-bk-12447-ER	MED Equity, LLC - Debtor
United States Bankruptcy Court Central District of California - Santa Ana Division; 8:22-bk-11556-TA	Stonebridge Ventures, LLC
Los Angeles Superior Court Central District; 21STCV29689	Kurmi LLC v. AB Capital, LLC; BBG Ira, LLC; Kenneth Morgan trustee of the Kenneth and Robin Morgan Trust dated 08/11/2021
Orange County Superior Court; 30-2021-01181232-CU-OR-CJC	Ferguson Enterprises LLC v. 1034 W Balboa LLC; ADW Lending LLC; Joshua Pukini; AB Capital LLC; Calpac Managements Inc.
Los Angeles County Superior Court; 22SMCV00390	Danmor Investment Profit Sharing Trust Inc; USTDS Inc. v. Calpac Mortgage Fund LLC; Joshua Pukini; Ryan Young
Inland Counties Riverside County Superior Court; CVPS2200340	Coldwell Banker Residential Brokerage v. Joshua R. Pukini; BDP Development Partners LLC
Orange County Superior Court; 30-2021-01236962-CU-BC-CJC	Frederick Veitch, individually and as trustee of the Frederick A. Veitch Revocable Trust v. Calpac Mortgage Fund LLC; Luna Construction Management LLC; Joshua Pukini
Los Angeles County Superior Court; 21NWCV00635	Showroom Interiors; Vesta Home LLC v. Joshua R. Pukini; Stonebridge Ventures LLC
Orange County Superior Court; 30-2021-01200463-CU-OE-CJC	Cierra Taylor v. AB Capital, LLC; Luna Construction Management LLC; Joshua Pukini
Los Angeles Superior Court Central District; 20STCV47149	Meribear Productions, Inc. dba Meridith Baer Home v. Stonebridge Ventures LLC; Joshua R. Pukini
Inland Counties Riverside County Superior Court; PSC2004436	Probuild Company LLC v. Luna Construction Management LLC; Joshua R. Pukini; Stonebridge Ventures LLC
Orange County Superior Court; 30-2020-01162773-CL-OR-CJC	Probuild Company LLC v. Luna Construction Management LLC; Joshua R. Pukini; Stonebridge Ventures LLC
Los Angeles County Superior Court; 20STCV26093	Jilanchi Saman; Qwan Capital LLC; Qwan International Investments LLC v. Joshua Pukini; Ryan Young
Orange County Superior Court; 30-2019-01062223-CU-OR-CJC	Wayne Larry Jones, individually and as Trustee of the Wayne Larry Jones Family Trust v. 2401 Alta Vista LLC; Studio Z Consulting Inc.; Richard W. Denzer; Joshua R. Pukini, individually and as Trustee of the Joshua R. Pukini Trust
Los Angeles Superior Court Central District; BC697499	Randy Rose v. Howard A. Royal; Mag Equities, LLC; Calpac Management Inc.; Cal Pac Capital; Med Equity LLC; Joshua R. Pukini; 871 Linda Flora LLC
Orange County Superior Court; 00792151CJC	Stephanie Moarton-Pukini v. Samuel E. Sunshine, MD, a medical corp.; Comfort Laser Clinics
Orange County Superior Court; 07cc07499	Point Center Fianncial, Inc. v. Josh Pukini; Calif. Pacific Home Loans, Inc. dba Cal-Pac Funding
Los Angeles Superior Court; 21STLC02599	Ganahl Lumber Company v. Calpac Management Inc., et al.
San Diego Superior Court; 37-2020-00046579-SC-SC-CTL	The Bronze Legacy LLC v. Calpac Management Inc.
US Bankrutpcy Court, Central District of California; 1:20-ap-01116	PB-1, LLC v. Calpac Management, Inc.
Los Angeles Superior Court; 18BBCV00223	Tap Ram Reinforcing, Inc. v. PB-1, LLC et. Al.
Riverside Superior Court; RIC1805223	County of Riverside v. Temescal-Leroy
Orange County Superior Court; 30-2015-00769288-CL-CL-CJC	Caistea Builders, Inc. v. Calpac Management Inc.
Riverside Superior Court; TES1000086	Calpac v. Rancon
Riverside Superior Court; TES10000741	Calpac v. Horton
Orange County Superior Court; 30-2021-01199187-CU-BC-CJC	State of California, Employment Development Department v. Ryan Young
Kern Superior Court; R-1502-CL-10493	Desert Valleys Federal Credit Union v. Young
Los Angeles County Superior Court; BC400715	Robert E. Word v. Rodeny Gresko dba Quick Appraisal Services; California Pacific Home Loans, Inc.; Ryan Young
Los Angeles Superior Court; 22STLC04460	Reno Hardware & Supply, Inc. v. Luna Construction Mangement, LLC
Los Angeles Superior Court; 22SMCV00390	USTDS, Inc. et al v. Calpac Mortgage Fund LLC
United States Bankruptcy Court for the Northern District of California; 22-50930	In re 40th Street Devleopment, LLC
Los Angeles Superior Court; 20BBCV00871	John Ingram v. CE Partners, LLC, Chris Nelson, and Does 1 through 100

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

In re

AB CAPITAL, LLC, a California limited liability company,  
Debtor,

Case No.: 8:22-bk-11585-TA

Adv. Case No. 8:22-ap-01091-TA

[Assigned to Hon. Theodor C. Albert]

RICHARD A. MARSHACK, Chapter 7 Trustee,  
Plaintiff,

v.

**STIPULATED PROTECTIVE ORDER<sup>1</sup>**

JOSHUA R. PUKINI, individually and as trustee of The Joshua R. Pukini Trust dated June 27, 2013; RYAN YOUNG, individually and as trustee of The Young Family Trust dated August 24, 2014, The Ryan J. Young Trust and The Young Ryan Trust; EDMUND AVENIDA SERRA, LLC, a California limited liability company; 1034 W BALBOA, LLC, a California limited liability company; AB CAPITAL FUND B, LLC, a California limited liability company; AB CAPITAL HOLDINGS I, LLC, a California limited liability company; AB CAPITAL LFD, INC., a California corporation; ABC 2260 SAN YSIDRO, LLC, a California limited liability company; BDP DEVELOPMENT PARTNERS, LLC, a California limited liability company; CAL-PAC DISTRESSED REAL ESTATE FUND I, LLC, a California limited liability company; CALPAC MANAGEMENT, INC., a California corporation; CALPAC MORTGAGE FUND, LLC, a California limited liability company; LIVING ART WORKS LLC, a California limited liability company; LUNA CONSTRUCTION MANAGEMENT, LLC, a California limited liability company; TABLEROCK ENTERPRISES, LLC, a California limited liability company,  
Defendants.

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and request the Court to enter the following Stipulated Protective Order (“SPO”). This SPO does not confer blanket protections on all disclosures or responses to discovery. The protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. Further, this SPO does not entitle the parties to file confidential information under seal. Rather, when the parties seek permission from the court to file material under seal, the parties must comply with applicable statutes and/or Local Rules.

B. GOOD CAUSE STATEMENT

In light of the nature of the claims and allegations in this case and the parties’ representations that discovery in this case will involve the production of confidential records, and in order to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in connection with this action, to address their handling of such material at the end of the litigation, and to serve the

<sup>1</sup> This Stipulated Protective Order is based substantially on the model of protective order provided under Magistrate Judge Jacqueline Choolijan’s procedures.

ends of justice, a protective order for such information is justified in this matter. The parties shall not designate any information/documents as confidential without a good faith belief that such information/documents have been maintained in a confidential, non-public manner, and that there is good cause or a compelling reason why it should not be part of the public record of this case.

2. DEFINITIONS

2.1 Action: this pending adversary proceeding, entitled *Marshack v. Pukini et al*, Adv. Pro. No. 8:22-ap-01091-TA.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this SPO.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Estate Professional(s): any individual or entities (including employees of such individual or entity) whose employment as a professional of the estate in the bankruptcy case of AB Capital, LLC, Bankr. Case No. 8:22-bk-11585-TA, has been approved by order entered by the Honorable Theodor C. Albert.

2.8 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.9 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.10 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.11 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, and includes support staff. This includes Estate Professionals employed as “Special Counsel”, “General Counsel”, “Special Litigation Counsel”, or any other attorney who is an Estate Professional.

2.12 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2.14 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.15 Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL."

2.16 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. SCOPE

The protections conferred by this SPO cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material, other than during a court hearing or at trial.

Any use of Protected Material during a court hearing or at trial shall be governed by the orders of the presiding judge. This SPO does not govern the use of Protected Material during a court hearing or at trial.

4. DURATION

Even after final disposition of this litigation, the confidentiality obligations imposed by this SPO shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this Action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-Party that designates information or items for protection under this SPO must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this SPO.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this SPO or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this SPO must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this SPO requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions), that the Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this SPO. Then, before producing the specified documents, the Producing Party must affix the "CONFIDENTIAL legend" to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identifies on the record, before the close of the deposition as protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend "CONFIDENTIAL." If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this SPO for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this SPO.

## 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer. All parties reserve the right to object to a document being labeled as confidential. The Challenging Party shall notify the Designating Party of all objections to documents designated as CONFIDENTIAL, and absent a court order protecting the documents, the Challenging Party may use the documents upon the later of fifteen (15) days after giving the notice, or the Court's issuance of an order resolving

any pending challenge, whichever is later. During the fifteen (15) day notice period, the Designating Party shall initiate a meet and confer conference within three (3) business days of receipt of the notice.

6.3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this SPO. When the Action has been terminated, a Receiving Party must comply with the provisions of Section 13 below.

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this SPO.

7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

(a) the Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) Estate Professionals to whom it is reasonably necessary to disclose the information for this Action;

(c) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(d) Experts (as defined in this SPO) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(e) the court and its personnel;

(f) court reporters and their staff;

(g) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(h) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(i) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the "Acknowledgment and Agreement to Be Bound" form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the "Acknowledgment and Agreement to Be Bound" attached as Exhibit A, unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this SPO; and

(j) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as "CONFIDENTIAL," that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this SPO. Such notification shall include a copy of this SPO; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as "CONFIDENTIAL" before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party's permission, or unless otherwise required by the law or court order. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) The terms of this SPO are applicable to information produced by a Non-Party in this Action and designated as "CONFIDENTIAL." Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this SPO. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject

to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the SPO in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If a Non-Party fails to seek a protective order from this Court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this SPO, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this SPO, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement into this SPO.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this SPO abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. No Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this SPO. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this SPO.

12.3 Filing Protected Material. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may

file the information in the public record unless otherwise instructed by the court.

13. FINAL DISPOSITION

After the final disposition of this Action, as defined in Section 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this SPO as set forth in Section 4.

14. Any violation of this SPO may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:

DATED: \_\_\_\_\_

\_\_\_\_\_  
Attorneys for Plaintiff

DATED: \_\_\_\_\_

\_\_\_\_\_  
Attorneys for Defendant

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
HON. THEODOR C. ALBERT  
Chief Judge, Bankruptcy Court, Central District of California

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order ("SPO") that was issued by the United States Bankruptcy Court for the Central District of California on \_\_\_\_\_ in the case of *Marshack v. Pukini et al*, Adv. Pro. No. 8:22-ap-01091-TA. I agree to comply with and to be bound by all the terms of this SPO and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this SPO to any person or entity except in strict compliance with the provisions of this SPO.

I further agree to submit to the jurisdiction of the United States Bankruptcy Court for the Central District of California for the purpose of enforcing the terms of this SPO, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ [print or type full name] of \_\_\_\_\_ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this SPO.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_

**Exhibit 2**

**PI Extension Orders**

James C. Bastian, Jr. - Bar No. 175415  
Ryan D. O'Dea - Bar No. 273478  
Rika M. Kido - Bar No. 273780  
**SHULMAN BASTIAN FRIEDMAN & BUI LLP**  
100 Spectrum Center Drive, Suite 600  
Irvine, California 92618  
Telephone: (949) 340-3400  
Facsimile: (949) 340-3000  
Email: JBastian@shulmanbastian.com  
ROdea@shulmanbastian.com  
RKido@shulmanbastian.com

Special Litigation Counsel for Richard A.  
Marshack, Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

In re  
**AB CAPITAL, LLC, a California limited  
liability company,**  
Debtor.

RICHARD A. MARSHACK, Chapter 7  
Trustee,

Plaintiff,

vs.

JOSHUA R. PUKINI, individually and as  
trustee of The Joshua R. Pukini Trust dated  
June 27, 2013; RYAN YOUNG, individually  
and as trustee of The Young Family Trust  
dated August 24, 2014, The Ryan J. Young  
Trust and The Young Ryan Trust; EDMUND  
VALASQUEZ, JR., an individual; 108  
AVENIDA SERRA, LLC, a California limited  
liability company; 1034 W BALBOA, LLC, a  
California limited liability company; 31831  
SUNSET LLC, a California limited liability  
company; AB CAPITAL FUND A, LLC, a  
California limited liability company; AB  
CAPITAL FUND B, LLC, a California limited  
liability company; AB CAPITAL HOLDINGS  
I, LLC, a California limited liability company;  
AB CAPITAL LFD, INC., a California  
corporation; ABC 2260 SAN YSIDRO LLC, a  
California limited liability company; BDP  
DEVELOPMENT PARTNERS, LLC, a  
California limited liability company; CAL-

**FILED & ENTERED**

**JUN 02 2023**

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY deramus DEPUTY CLERK

Case No. 8:22-bk-11585-TA

Chapter 7

Adv No. 8:22-ap-01091-TA

**ORDER APPROVING STIPULATION TO  
EXTEND TERM OF PRELIMINARY  
INJUNCTION**

PAC DISTRESSED REAL ESTATE FUND I, LLC, a California limited liability company; CALPAC MANAGEMENT, INC., a California corporation; CALPAC MORTGAGE FUND, LLC, a California limited liability company; LIVING ART WORKS LLC, a California limited liability company; LUNA CONSTRUCTION MANAGEMENT, LLC, a California limited liability company; TABLEROCK ENTERPRISES, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

The Court, having read and considered the Stipulation to Extend Term of Preliminary Injunction (the “Stipulation”) entered into by and between Richard A. Marshack, Chapter 7 Trustee of the Estate of AB Capital, LLC (“Plaintiff”), defendant Ryan Young, defendant CalPac Mortgage Fund, defendant Cal-Pac Distressed Real Estate Fund I, LLC, defendant Calpac Management, Inc. (collectively, the “Calpac Entities”), defendant Edmund Valasquez Jr. and defendant Josh Pukini filed with this Court on June 2, 2023 [Adv. Dkt. No. 151], and finding good cause appearing therefore,

**IT IS HEREBY ORDERED** that:

1. The Stipulation is approved.
2. The Term of the Preliminary Injunction (defined in the Stipulation) is extended up to and including February 28, 2024.
3. The Plaintiff shall withdraw the “Motion For Order: (1) Compelling Compliance With Terms of Preliminary Injunction; (2) To Show Cause As To Why Defendant Joshua R. Pukini Should Not Be Held In Contempt For Violation of The Preliminary Injunction; (3) To Show Cause As To Why Defendant Edmund Valasquez, Jr. Should Not Be Held In Contempt For Violation of the Preliminary Injunction; and (4) To Show Cause Why Anerio V. Altman Should Not Be Compelled To Disgorge Funds Received In Violation of the Preliminary Injunction” filed on January 13, 2023 [Adv. Dkt. No. 44].

1           4.       If the Plaintiff exercises his business judgment to remove any property currently  
2 covered by the Preliminary Injunction from the Preliminary Injunction's defined term "Enjoined  
3 Property," Plaintiff shall: (a) Provide written notice, via email, to all Parties to this Stipulation of  
4 his intent to remove a specific property from the Preliminary Injunction's defined term "Enjoined  
5 Property" (a "Removal Notice"); (b) three (3) days after providing a Removal Notice to all Parties,  
6 Plaintiff may file with the Court, a document styled as "Plaintiff's Intent to Remove [ Insert Property  
7 Description ] (the "Removal Filing") from the Preliminary Injunction; and (c) Plaintiff's removal  
8 of any specific property that is the subject of a Removal Filing shall be deemed removed from the  
9 Preliminary Injunction upon the submission of a Removal Filing without further order of this Court.

10           5.       Defendants 31831 Sunset LLC and Tablerock Enterprises, LLC are released from  
11 the Preliminary Injunction and removed from the definition of "Enjoined Party" in the Preliminary  
12 Injunction.

13           6.       All other properties and entities not otherwise mentioned in the Stipulation or any  
14 subsequent order redefining them out of the definition as "Enjoined Properties" remain enjoined by  
15 the Preliminary Injunction entered as Adv. Dkt. No. 32.

16                               # # #  
17  
18  
19  
20  
21

22  
23 Date: June 2, 2023



Theodor C. Albert  
United States Bankruptcy Judge

James C. Bastian, Jr. - Bar No. 175415  
Ryan D. O'Dea - Bar No. 273478  
Rika M. Kido - Bar No. 273780  
**SHULMAN BASTIAN FRIEDMAN & BUI LLP**  
100 Spectrum Center Drive, Suite 600  
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Facsimile: (949) 340-3000  
Email: JBastian@shulmanbastian.com  
ROdea@shulmanbastian.com  
RKido@shulmanbastian.com

**FILED & ENTERED**

**JUN 07 2023**

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY deramus DEPUTY CLERK

Special Litigation Counsel for Richard A.  
Marshack, Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

In re

**AB CAPITAL, LLC, a California limited  
liability company,**

Debtor.

RICHARD A. MARSHACK, Chapter 7  
Trustee,

Plaintiff,

vs.

JOSHUA R. PUKINI, individually and as  
trustee of The Joshua R. Pukini Trust dated  
June 27, 2013; RYAN YOUNG, individually  
and as trustee of The Young Family Trust  
dated August 24, 2014, The Ryan J. Young  
Trust and The Young Ryan Trust; EDMUND  
VALASQUEZ, JR., an individual; 108  
AVENIDA SERRA, LLC, a California limited  
liability company; 1034 W BALBOA, LLC, a  
California limited liability company; 31831  
SUNSET LLC, a California limited liability  
company; AB CAPITAL FUND A, LLC, a  
California limited liability company; AB  
CAPITAL FUND B, LLC, a California limited  
liability company; AB CAPITAL HOLDINGS  
I, LLC, a California limited liability company;  
AB CAPITAL LFD, INC., a California  
corporation; ABC 2260 SAN YSIDRO LLC, a  
California limited liability company; BDP  
DEVELOPMENT PARTNERS, LLC, a  
California limited liability company; CAL-

Case No. 8:22-bk-11585-TA

Chapter 7

Adv No. 8:22-ap-01091-TA

**ORDER APPROVING THE  
STIPULATION TO EXTEND TERM OF  
PRELIMINARY INJUNCTION TO  
INCLUDE AND BIND THE JOSHUA R.  
PUKINI TRUST DATED JUNE 27, 2013**

**[Relates to Adv. Dkt. No. 152]**

**Status Conference**

Date: June 6, 2023

Time: 11:00 a.m.

Place: Courtroom 5B  
411 West Fourth Street  
Santa Ana, California 92701

PAC DISTRESSED REAL ESTATE FUND I, LLC, a California limited liability company; CALPAC MANAGEMENT, INC., a California corporation; CALPAC MORTGAGE FUND, LLC, a California limited liability company; LIVING ART WORKS LLC, a California limited liability company; LUNA CONSTRUCTION MANAGEMENT, LLC, a California limited liability company; TABLEROCK ENTERPRISES, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

The status conference in the above-referenced adversary proceeding was held on June 6, 2023 at 11:00 a.m., the Honorable Theodor C. Albert, United States Bankruptcy Judge, presiding. Richard A. Marshack, Chapter 7 trustee for the bankruptcy estate of AB Capital, LLC (“Plaintiff”) and special litigation counsel for the Plaintiff, Ryan D. O’Dea of Shulman Bastian Friedman Bui LLP appeared as reflected in the record.

**IT IS HEREBY ORDERED** that:

The Order Approving the Stipulation to Extend Term of Preliminary Injunction to February 28, 2024, entered by the Court on June 2, 2023 and referenced as adversary docket no. 152, shall include and bind The Joshua R. Pukini Trust dated June 27, 2013.

###

Date: June 7, 2023



Theodor C. Albert  
United States Bankruptcy Judge

**Exhibit 3**  
**Title Report**



Lawyers Title - Los Angeles  
7530 N Glenoaks Blvd  
Burbank, CA 91504  
Phone: 800.747.7777

## Title Report

Berkshire Hathaway HomeService  
1400 Newport Center Dr #200  
Newport Beach, CA 92660

Attn: Jennifer Toyama

Your Reference No: 38861 ELMWOOD DR

Property Address: 38861 Elmwood Drive, Rancho Mirage, California

Title Officer: Michael Chediak--So  
Email: tu07@ltic.com  
Phone No.: (818) 252-6050  
File No.: 123070110



[Click here to view your LiveLOOK Title Report](#)

### Key Features

*of your LiveLOOK Prelim Report*



Summary Page



Linked Documents



Mobile-Friendly



Flagged Items



Shortcuts

24/7 real-time access to all information related to a title insurance transaction.



**Effortless, Efficient, Compliant, and Accessible**



Lawyers Title Company  
7530 N. Glenoaks Blvd.  
Burbank, CA 91504  
Phone: (818) 767-2000  
Fax: (818) 504-4937

Berkshire Hathaway HomeService  
1400 Newport Center Dr #200  
Newport Beach, CA 92660

Attn: Jennifer Toyama

Title Officer: Michael Chediak--So  
email: tu07@ltic.com  
Phone No.: (818) 252-6050  
Fax No.: (818) 252-4549  
File No.: 123070110

Your Reference No:

38861 ELMWOOD DR

Property Address: 38861 Elmwood Drive, City of Rancho Mirage, California

---

## PRELIMINARY REPORT

---

Dated as of **January 11, 2023 at 7:30 a.m.**

In response to the application for a policy of title insurance referenced herein, Lawyers Title Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitation on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

The policy(s) of title insurance to be issued hereunder will be policy(s) of **Commonwealth Land Title Insurance Company**.

***Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered. It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.***

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

## **SCHEDULE A**

The form of policy of title insurance contemplated by this report is:

**CLTA/ALTA 2021 Homeowner's Policy of Title Insurance  
ALTA Loan 2021**

The estate or interest in the land hereinafter described or referred to covered by this report is:

### **A Fee**

Title to said estate or interest at the date hereof is [vested in:](#)

**Joshua R. Pukini, Trustee of the Joshua R. Pukini Trust dated 6/27/13, subject to Item  
No. 7 of Schedule B**

The land referred to herein is situated in the County of Riverside, State of California, and is described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

## **EXHIBIT "A"**

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, TOWNSHIP 5 SOUTH, RANGE 5 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF RANCHO MIRAGE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID SOUTHWEST 1/4, 180 FEET TO THE TRUE POINT OF BEGINNING;

THENCE WESTERLY AND PARALLEL WITH THE NORTHERLY LINE OF SAID SOUTHWEST 1/4, 85 FEET TO THE NORTHERLY CORNER OF THE PARCEL OF LAND CONVEYED TO MELVIN J. HILL AND KATHLEEN P. HILL, HUSBAND AND WIFE, AS JOINT TENANTS, BY DEED RECORDED MAY 5, 1958, IN [BOOK 2266, PAGE 146](#), OFFICIAL RECORDS;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID HILL PARCEL, 134 FEET TO THE SOUTHEASTERLY CORNER THEREOF;

THENCE EASTERLY AND PARALLEL WITH THE NORTHERLY LINE OF SAID SOUTHWEST 1/4, 85 FEET TO THE EASTERLY LINE OF SAID SOUTHWEST 1/4;

THENCE NORTHERLY ALONG SAID EASTERLY LINE, 134 FEET TO THE TRUE POINT OF BEGINNING. EXCEPTING THEREFROM 15 FEET ON THE EAST BOUNDARY THEREOF FOR ROAD PURPOSES.

[ASSESSOR'S PARCEL NUMBER: 689-140-004](#)

## SCHEDULE B

At the date hereof Exceptions to coverage in addition to the printed exceptions and exclusions in said policy form would be as follows:

- A. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2023-2024.
- B. Property taxes, including any personal property taxes and any assessments collected with taxes, are as follows:

<u>Tax Identification No.:</u>	<u>689-140-004</u>
Fiscal Year:	2022-2023
1st Installment:	\$2,145.61 Delinquent
Penalty:	\$214.56
2nd installment:	\$2,145.61 Open
Penalty and Cost:	\$252.62
Homeowners Exemption:	None Shown
Code Area:	017-001

- C. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 (commencing with Section 75) or Part 2, Chapter 3, Articles 3 and 4, respectively, of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A or as a result of changes in ownership or new construction occurring prior to Date of Policy.
- 1. Water rights, claims or title to water, whether or not disclosed by the Public Records.
  - 2. Easement(s) in favor of the public over any existing roads lying within said Land.
  - 3. Reservations contained in the Patent

From:	The United States of America
Recording Date:	December 3, 1923
Recording No.:	<u>Book 8, Page 398</u> , of Patents

Which among other things recites as follows:

The right to prospect for, mine and remove all oil, gas and other mineral deposits.

A right of way thereon for ditches or canals constructed by the authority of the United States of America.

A right of way not exceeding Not Set Out feet in width, for roadway and for public utility purposes, located along the boundary(s) of the Land.

Any vested and accrued water rights for mining, agricultural, manufacturing or other purposes and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by local customs, laws and decisions of courts.

The right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted as provided by law.

4. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document:

Granted To: California Electric Power Company  
Purpose: Public utilities  
Recording Date: May 17, 1950  
Recording No: [Book 1173, Page 335](#), of Official Records  
Affects: said land more particularly described therein

5. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document:

Granted To: Harold J. Hicks doing business as Palm Valley Water Company  
Purpose: Pipelines, Ingress and Egress  
Recording Date: January 18, 1961  
Recording No: Book 2834, Page 34, of Official Records  
Affects: said land more particularly described therein

6. A deed of trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount: \$260,000.00  
Dated: February 27, 2017  
Trustor/Grantor: The Joshua R. Pukini Trust dated June 27, 2013  
Trustee: Equity Title Company  
Beneficiary: PENSCO Trust Company LLC Custodian FBO Stephen A. Field IRA as to an undivided 260,000/260,000 interest  
Loan No.: Not Set Out  
Recording Date: March 6, 2017  
[Recording No:](#) [2017-0091958](#), of Official Records

This Company will require that the original note, the original deed of trust and a properly executed request for full reconveyance together with appropriate documentation (i.e., copy of trust, partnership agreement or corporate resolution) be in this office prior to the close of this transaction if the above-mentioned item is to be paid through this transaction or deleted from a policy of title insurance.

Any demands submitted to us for payoff must be signed by all beneficiaries as shown on said deed of trust, and/or any assignments thereto. In the event said demand is submitted by an agent of the beneficiary(s), we will require the written approval of the demand by the beneficiary(s). Servicing agreements do not constitute approval for the purposes of this requirement.

If no amounts remain due under the obligation a zero balance demand will be required along with the reconveyance documents.

In addition, we require the written approval of said demand by the trustor(s) on said deed of trust or the current owners if applicable.

7. A pending Court Action as disclosed by a recorded notice:

Plaintiff: Stephanie Pukini  
Defendant: Joshua Pukini  
County: Riverside  
Court: Superior Court of California  
Case No.: 20D005539  
Recorded: December 2, 2020  
[Recording No.:](#) [2020-0606406](#), of Official Records

8. A deed of trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount: \$385,000.00  
Dated: April 21, 2022  
Trustor/Grantor: Joshua R. Pukini Trust Dated June 27, 2013  
Trustee: Lawyers Title Company  
Beneficiary: Forge Trust Company Custodian FBO Geoffrey P. Field IRA as to an undivided 75,000/385,000 interest; Geoffrey P. Field, Trustee of the Geoffrey P. Field Living Trust dated August 10, 2011 as to an undivided 75,000/385,000 interest; Stephen A. Field, Trustee of the Stephen A. Field Family Trust dated June 6, 1992 as to an undivided 235,000/385,000 interest.  
Loan No.: Not Set Out  
Recording Date: April 28, 2022  
Recording No: [2022-0200750](#), of Official Records

This Company will require that the original note, the original deed of trust and a properly executed request for full reconveyance together with appropriate documentation (i.e., copy of trust, partnership agreement or corporate resolution) be in this office prior to the close of this transaction if the above-mentioned item is to be paid through this transaction or deleted from a policy of title insurance.

Any demands submitted to us for payoff must be signed by all beneficiaries as shown on said deed of trust, and/or any assignments thereto. In the event said demand is submitted by an agent of the beneficiary(s), we will require the written approval of the demand by the beneficiary(s). Servicing agreements do not constitute approval for the purposes of this requirement.

If no amounts remain due under the obligation a zero balance demand will be required along with the reconveyance documents.

In addition, we require the written approval of said demand by the trustor(s) on said deed of trust or the current owners if applicable.

9. An abstract of judgment for the amount shown below and any other amounts due:

Amount: \$3,734,240.80  
Debtor: Joshua Pukini aka Josh Pukini aka Joshua Raymond Pukini  
Creditor: Saman Jilanchi  
Date Entered: June 8, 2022  
County: Los Angeles  
Court: Superior Court of California  
Case No.: 20STCV26093  
Recording Date: June 17, 2022  
Recording No: [2022-0275897](#), of Official Records

10. An abstract of judgment for the amount shown below and any other amounts due:

Amount: \$3,734,240.80  
Debtor: Joshua Pukini aka Josh Pukini aka Joshua Raymond Pukini  
Creditor: Saman Jilanchi  
Date Entered: June 8, 2022  
County: Los Angeles  
Court: Superior Court of California  
Case No.: 20STCV26093  
Recording Date: June 17, 2022  
Recording No: [2022-0276316](#), of Official Records

11. Any invalidity or defect in the title of Vestees in the event such trust is invalid or fails to confer sufficient powers in the trustees or in the event there is lack of compliance with the terms and provisions of the trust instrument.

If title is to be insured in the trustee(s) of a trust, (or if their act is to be insured), this Company will require a Trust Certification pursuant to California Probate Code Section 18100.5.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

12. Any rights of the parties in possession of a portion of, or all of, said Land, which rights are not disclosed by the Public Records.

The Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage.

The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

**END OF SCHEDULE B EXCEPTIONS**

**PLEASE REFER TO THE "NOTES AND REQUIREMENTS SECTION" WHICH FOLLOWS FOR  
INFORMATION NECESSARY TO COMPLETE THIS TRANSACTION**

## **REQUIREMENTS SECTION:**

Req. No. 1: In order to complete this report, the Company requires a Statement of Information to be completed by the following party(s),

Party(s): All Parties

The Company reserves the right to add additional items or make further requirements after review of the requested Statement of Information.

NOTE: The Statement of Information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed Statement of Information assists the Company in the elimination of certain matters which appear to involve the parties but in fact affect another party with the same or similar name. Be assured that the Statement of Information is essential and will be kept strictly confidential to this file.

Req. No. 2: The Company will require either (a) a complete copy of the trust agreement and any amendments thereto certified by the trustee(s) to be a true and complete copy with respect to the hereinafter named trust, or (b) a Certification, pursuant to California Probate Code Section 18100.5, executed by all of the current trustee(s) of the hereinafter named trust, a form of which is attached.

Name of Trust: The Joshua R. Pukini Trust dated 6/27/13.

Req. No. 3: Pursuant to the type of transaction contemplated in this Report, a Documentary Transfer Tax Affidavit must be filled out and executed to accompany the Transfer Deed, a form of which can be obtained by going to the following Website [www.riversideacr.com](http://www.riversideacr.com) or by contacting your Title Officer or Escrow Officer.

## INFORMATIONAL NOTES SECTION

- Note No. 1: The information on the attached plat is provided for your convenience as a guide to the general location of the subject property. The accuracy of this plat is not guaranteed, nor is it a part of any policy, report or guarantee to which it may be attached.
- Note No. 2: California insurance code section 12413.1 regulates the disbursement of escrow and sub-escrow funds by title companies. The law requires that funds be deposited in the title company escrow account and available for withdrawal prior to disbursement. Funds deposited with the company by wire transfer may be disbursed upon receipt. Funds deposited with the company via cashier's check or teller's check drawn on a California based bank may be disbursed on the next business day after the day of deposit. If funds are deposited with the company by other methods, recording and/or disbursement may be delayed. All escrow and sub-escrow funds received by the company will be deposited with other escrow funds in one or more non-interest bearing escrow accounts of the company in a financial institution selected by the company. The company may receive certain direct or indirect benefits from the financial institution by reason of the deposit of such funds or the maintenance of such accounts with such financial institution, and the company shall have no obligation to account to the depositing party in any manner for the value of, or to pay to such party, any benefit received by the company. Those benefits may include, without limitation, credits allowed by such financial institution on loans to the company or its parent company and earnings on investments made with the proceeds of such loans, accounting, reporting and other services and products of such financial institution. Such benefits shall be deemed additional compensation of the company for its services in connection with the escrow or sub-escrow.

**For wiring Instructions please contact your Title Officer or Title Company Escrow officer.**

- Note No. 3: Lawyers Title is a division of Commonwealth Land Title Insurance Company. The insurer in policies of title insurance, when issued in this transaction, will be Commonwealth Land Title Insurance Company.
- Note No. 4: Notice: Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving Land that is associated with these activities.
- Note No. 5: None of the items shown in this report will cause the Company to decline to attach CLTA Endorsement Form 100 to an ALTA Loan Policy, when issued.
- Note No. 6: The following information will be included in the CLTA Form 116 or ALTA Form 22-06 Endorsement to be issued pursuant to this order:
- There is located on said Land: Single Family Residence  
Known as: 38861 Elmwood Drive, City of Rancho Mirage, California.
- Note No. 7: There are no conveyances affecting said land recorded within 24 months of the date of this report.
- Note No. 8: The Company requires current beneficiary demands prior to closing. If the demand is expired and a current demand cannot be obtained, our requirements will be as follows:

File No: 123070110

- (a) If this Company accepts a verbal update on the demand, we may hold an amount equal to one monthly mortgage payment. This hold will be in addition to the verbal hold the lender may have stipulated.
- (b) If this Company cannot obtain a verbal update on the demand, we will either pay off the expired demand, or wait for the amended demand, at our discretion.
- (c) All payoff figures are verified at closing. If the customer's last payment was made within 15 days of closing, our Payoff Department may hold one month's payment to insure check has cleared the bank (unless a copy of the cancelled check is provided, in which case there will be no hold).

Note No. 9: Pursuant to Government Code Section 27388.1, as amended and effective as of 1-1-2018, a Documentary Transfer Tax (DTT) Affidavit may be required to be completed and submitted with each document when DTT is being paid or when an exemption is being claimed from paying the tax. If a governmental agency is a party to the document, the form will not be required. DTT Affidavits may be available at a Tax Assessor-County Clerk-Recorder.

Note No. 10: The following Exclusion(s) are added to preliminary reports, commitments and will be included as an endorsement in the following policies:

A. 2006 ALTA Owner's Policy (06-17-06).

6) Defects, liens, encumbrances, adverse claims, notices, or other matters not appearing in the Public Records but that would be disclosed by an examination of any records maintained by or on behalf of a Tribe or on behalf of its members.

B. 2006 ALTA Loan Policy (06-17-06).

8) Defects, liens, encumbrances, adverse claims, notices, or other matters not appearing in the Public Records but that would be disclosed by an examination of any records maintained by or on behalf of a Tribe or on behalf of its members.

9) Any claim of invalidity, unenforceability, or lack of priority of the lien of the Insured Mortgage based on the application of a Tribe's law resulting from the failure of the Insured Mortgage to specify State law as the governing law with respect to the lien of the Insured Mortgage.

C. ALTA Homeowner's Policy of Title Insurance (12-02-13) and CLTA Homeowner's Policy of Title Insurance (12-02-13).

10) Defects, liens, encumbrances, adverse claims, notices, or other matters not appearing in the public records but that would be disclosed by an examination of any records maintained by or on behalf of a tribe or on behalf of its members.

D. ALTA Expanded Coverage Residential Loan Policy - Assessments Priority (04-02-15).

File No: 123070110

12) Defects, liens, encumbrances, adverse claims, notices, or other matters not appearing in the Public Records but that would be disclosed by an examination of any records maintained by or on behalf of a Tribe or on behalf of its members.

13) Any claim of invalidity, unenforceability, or lack of priority of the lien of the Insured Mortgage based on the application of a Tribe's law resulting from the failure of the Insured Mortgage to specify State law as the governing law with respect to the lien of the Insured Mortgage.

E. CLTA Standard Coverage Policy 1990 (11-09-18).

7) Defects, liens, encumbrances, adverse claims, notices, or other matters not appearing in the public records but that would be disclosed by an examination of any records maintained by or on behalf of a tribe or on behalf of its members.

8) Any claim of invalidity, unenforceability, or lack of priority of the lien of the insured mortgage based on the application of a tribe's law resulting from the failure of the insured mortgage to specify state law as the governing law with respect to the lien of the insured mortgage.

Processor: ZK  
Date Typed: January 19, 2023

**Attachment One (Revised 05-06-16)**

**CALIFORNIA LAND TITLE ASSOCIATION  
STANDARD COVERAGE POLICY – 1990**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (12-02-13)  
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE**

**EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
  - a. building;
  - b. zoning;
  - c. land use;
  - d. improvements on the Land;
  - e. land division; and
  - f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
  - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 21.

7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.
8. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.
9. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

#### LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	<b>\$ 10,000.00</b>
Covered Risk 18:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	<b>\$ 25,000.00</b>
Covered Risk 19:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	<b>\$ 25,000.00</b>
Covered Risk 21:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	<b>\$ 5,000.00</b>

#### 2006 ALTA LOAN POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;

or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13 or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.

5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### **EXCEPTIONS FROM COVERAGE**

Except as provided in Schedule B - Part II, This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses, that arise by reason of:

#### **PART I**

In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

#### **PART II**

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the Insured Mortgage:

#### **2006 ALTA OWNER'S POLICY (06-17-06)**

#### **EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.

- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- 2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- 3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
- 4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
- 5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### **EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses, that arise by reason of:

In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

- 1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- 2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
- 3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
- 4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
- 5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
- 6. Any lien or right to a lien for services, labor or material not shown by the Public Records.
- 7. Variable exceptions such as taxes, easements, CC&R's, etc. shown here.

#### **ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY – ASSESSMENTS PRIORITY (04-02-15)**

#### **EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- 1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;

- (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;
- or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
  3. Defects, liens, encumbrances, adverse claims, or other matters
    - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
    - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
    - (c) resulting in no loss or damage to the Insured Claimant;
    - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
    - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
  4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
  5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
  6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
  7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
  8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
  9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
    - (a) a fraudulent conveyance or fraudulent transfer, or
    - (b) a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.
  10. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.
  11. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.



Lawyers Title Company  
7530 N. Glenoaks Blvd.  
Burbank, CA 91504  
Phone: (818) 767-2000  
Fax: (818) 504-4937

Order No. 123070110

## Notice of Available Discounts

Pursuant to Section 2355.3 in Title 10 of the California Code of Regulations Fidelity National Financial, Inc. and its subsidiaries ("FNF") must deliver a notice of each discount available under our current rate filing along with the delivery of escrow instructions, a preliminary report or commitment. Please be aware that the provision of this notice does not constitute a waiver of the consumer's right to be charged the filed rate. As such, your transaction may not qualify for the below discounts.

You are encouraged to discuss the applicability of one or more of the below discounts with a Company representative. These discounts are generally described below; consult the rate manual for a full description of the terms, conditions and requirements for such discount. These discounts only apply to transactions involving services rendered by the FNF Family of Companies. This notice only applies to transactions involving property improved with a one-to-four family residential dwelling.

**FNF Underwritten Title Company**  
LTC – Lawyers Title Company

**FNF Underwriter**  
CLTIC – Commonwealth Land Title Insurance Co.

### **Available Discounts**

#### **DISASTER LOANS (CLTIC)**

The charge for a Lender's Policy (Standard or Extended coverage) covering the financing or refinancing by an owner of record, within 24 months of the date of a declaration of a disaster area by the government of the United States or the State of California on any land located in said area, which was partially or totally destroyed in the disaster, will be 50% of the appropriate title insurance rate.

#### **EMPLOYEE RATE (LTC and CLTIC)**

No charge shall be made to employees (including employees on approved retirement) of the Company or its underwritten, subsidiary or affiliated title companies for policies or escrow services in connection with financing, refinancing, sale or purchase of the employees' bona fide home property. Waiver of such charges is authorized only in connection with those costs which the employee would be obligated to pay, by established custom, as a party to the transaction.

Notice of Available Discount

Mod. 10/21/2011

## Wire Fraud Alert

This Notice is not intended to provide legal or professional advice. If you have any questions, please consult with a lawyer.

All parties to a real estate transaction are targets for wire fraud and many have lost hundreds of thousands of dollars because they simply relied on the wire instructions received via email, without further verification. **If funds are to be wired in conjunction with this real estate transaction, we strongly recommend verbal verification of wire instructions through a known, trusted phone number prior to sending funds.**

In addition, the following non-exclusive self-protection strategies are recommended to minimize exposure to possible wire fraud.

- **NEVER RELY** on emails purporting to change wire instructions. Parties to a transaction rarely change wire instructions in the course of a transaction.
- **ALWAYS VERIFY** wire instructions, specifically the ABA routing number and account number, by calling the party who sent the instructions to you. DO NOT use the phone number provided in the email containing the instructions, use phone numbers you have called before or can otherwise verify. **Obtain the phone number of relevant parties to the transaction as soon as an escrow account is opened.** DO NOT send an email to verify as the email address may be incorrect or the email may be intercepted by the fraudster.
- **USE COMPLEX EMAIL PASSWORDS** that employ a combination of mixed case, numbers, and symbols. Make your passwords greater than eight (8) characters. Also, change your password often and do NOT reuse the same password for other online accounts.
- **USE MULTI-FACTOR AUTHENTICATION** for email accounts. Your email provider or IT staff may have specific instructions on how to implement this feature.

For more information on wire-fraud scams or to report an incident, please refer to the following links:

**Federal Bureau of Investigation:**  
<http://www.fbi.gov>

**Internet Crime Complaint Center:**  
<http://www.ic3.gov>

## **FIDELITY NATIONAL FINANCIAL PRIVACY NOTICE**

Effective August 1, 2021

Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF," "our," or "we") respect and are committed to protecting your privacy. This Privacy Notice explains how we collect, use, and protect personal information, when and to whom we disclose such information, and the choices you have about the use and disclosure of that information.

A limited number of FNF subsidiaries have their own privacy notices. If a subsidiary has its own privacy notice, the privacy notice will be available on the subsidiary's website and this Privacy Notice does not apply.

### **Collection of Personal Information**

FNF may collect the following categories of Personal Information:

- contact information (e.g., name, address, phone number, email address);
- demographic information (e.g., date of birth, gender, marital status);
- identity information (e.g. Social Security Number, driver's license, passport, or other government ID number);
- financial account information (e.g. loan or bank account information); and
- other personal information necessary to provide products or services to you.

We may collect Personal Information about you from:

- information we receive from you or your agent;
- information about your transactions with FNF, our affiliates, or others; and
- information we receive from consumer reporting agencies and/or governmental entities, either directly from these entities or through others.

### **Collection of Browsing Information**

FNF automatically collects the following types of Browsing Information when you access an FNF website, online service, or application (each an "FNF Website") from your Internet browser, computer, and/or device:

- Internet Protocol (IP) address and operating system;
- browser version, language, and type;
- domain name system requests; and
- browsing history on the FNF Website, such as date and time of your visit to the FNF Website and visits to the pages within the FNF Website.

Like most websites, our servers automatically log each visitor to the FNF Website and may collect the Browsing Information described above. We use Browsing Information for system administration, troubleshooting, fraud investigation, and to improve our websites. Browsing Information generally does not reveal anything personal about you, though if you have created a user account for an FNF Website and are logged into that account, the FNF Website may be able to link certain browsing activity to your user account.

### **Other Online Specifics**

**Cookies.** When you visit an FNF Website, a "cookie" may be sent to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. Information gathered using cookies helps us improve your user experience. For example, a cookie can help the website load properly or can customize the display page based on your browser type and user preferences. You can choose whether or not to accept cookies by changing your Internet browser settings. Be aware that doing so may impair or limit some functionality of the FNF Website.

**Web Beacons.** We use web beacons to determine when and how many times a page has been viewed. This information is used to improve our websites.

**Do Not Track.** Currently our FNF Websites do not respond to "Do Not Track" features enabled through your browser.

**Links to Other Sites.** FNF Websites may contain links to unaffiliated third-party websites. FNF is not responsible for the privacy practices or content of those websites. We recommend that you read the privacy policy of every website you visit.

### **Use of Personal Information**

FNF uses Personal Information for three main purposes:

- To provide products and services to you or in connection with a transaction involving you.
- To improve our products and services.
- To communicate with you about our, our affiliates', and others' products and services, jointly or independently.

**EXHIBIT 3**

### **When Information Is Disclosed**

We may disclose your Personal Information and Browsing Information in the following circumstances:

- to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure;
- to nonaffiliated service providers who provide or perform services or functions on our behalf and who agree to use the information only to provide such services or functions;
- to nonaffiliated third party service providers with whom we perform joint marketing, pursuant to an agreement with them to jointly market financial products or services to you;
- to law enforcement or authorities in connection with an investigation, or in response to a subpoena or court order; or
- in the good-faith belief that such disclosure is necessary to comply with legal process or applicable laws, or to protect the rights, property, or safety of FNF, its customers, or the public.

The law does not require your prior authorization and does not allow you to restrict the disclosures described above. Additionally, we may disclose your information to third parties for whom you have given us authorization or consent to make such disclosure. We do not otherwise share your Personal Information or Browsing Information with nonaffiliated third parties, except as required or permitted by law. We may share your Personal Information with affiliates (other companies owned by FNF) to directly market to you. Please see "Choices with Your Information" to learn how to restrict that sharing.

We reserve the right to transfer your Personal Information, Browsing Information, and any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of bankruptcy, reorganization, insolvency, receivership, or an assignment for the benefit of creditors. By submitting Personal Information and/or Browsing Information to FNF, you expressly agree and consent to the use and/or transfer of the foregoing information in connection with any of the above described proceedings.

### **Security of Your Information**

We maintain physical, electronic, and procedural safeguards to protect your Personal Information.

### **Choices With Your Information**

If you do not want FNF to share your information among our affiliates to directly market to you, you may send an "opt out" request as directed at the end of this Privacy Notice. We do not share your Personal Information with nonaffiliates for their use to direct market to you without your consent.

Whether you submit Personal Information or Browsing Information to FNF is entirely up to you. If you decide not to submit Personal Information or Browsing Information, FNF may not be able to provide certain services or products to you.

For California Residents: We will not share your Personal Information or Browsing Information with nonaffiliated third parties, except as permitted by California law. For additional information about your California privacy rights, please visit the "California Privacy" link on our website (<https://fnf.com/pages/californiaprivacy.aspx>) or call (888) 413-1748.

For Nevada Residents: You may be placed on our internal Do Not Call List by calling (888) 714-2710 or by contacting us via the information set forth at the end of this Privacy Notice. Nevada law requires that we also provide you with the following contact information: Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; Phone number: (702) 486-3132; email: BCPINFO@ag.state.nv.us.

For Oregon Residents: We will not share your Personal Information or Browsing Information with nonaffiliated third parties for marketing purposes, except after you have been informed by us of such sharing and had an opportunity to indicate that you do not want a disclosure made for marketing purposes.

For Vermont Residents: We will not disclose information about your creditworthiness to our affiliates and will not disclose your personal information, financial information, credit report, or health information to nonaffiliated third parties to market to you, other than as permitted by Vermont law, unless you authorize us to make those disclosures.

### **Information From Children**

The FNF Websites are not intended or designed to attract persons under the age of eighteen (18). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian.

### **International Users**

FNF's headquarters is located within the United States. If you reside outside the United States and choose to provide Personal Information or Browsing Information to us, please note that we may transfer that information outside of your

country of residence. By providing FNF with your Personal Information and/or Browsing Information, you consent to our collection, transfer, and use of such information in accordance with this Privacy Notice.

**FNF Website Services for Mortgage Loans**

Certain FNF companies provide services to mortgage loan servicers, including hosting websites that collect customer information on behalf of mortgage loan servicers (the "Service Websites"). The Service Websites may contain links to both this Privacy Notice and the mortgage loan servicer or lender's privacy notice. The sections of this Privacy Notice titled When Information is Disclosed, Choices with Your Information, and Accessing and Correcting Information do not apply to the Service Websites. The mortgage loan servicer or lender's privacy notice governs use, disclosure, and access to your Personal Information. FNF does not share Personal Information collected through the Service Websites, except as required or authorized by contract with the mortgage loan servicer or lender, or as required by law or in the good-faith belief that such disclosure is necessary: to comply with a legal process or applicable law, to enforce this Privacy Notice, or to protect the rights, property, or safety of FNF or the public.

**Your Consent To This Privacy Notice; Notice Changes; Use of Comments or Feedback**

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of the information in accordance with this Privacy Notice. We may change this Privacy Notice at any time. The Privacy Notice's effective date will show the last date changes were made. If you provide information to us following any change of the Privacy Notice, that signifies your assent to and acceptance of the changes to the Privacy Notice.

**Accessing and Correcting Information; Contact Us**

If you have questions, would like to correct your Personal Information, or want to opt-out of information sharing for affiliate marketing, visit FNF's [Opt Out Page](#) or contact us by phone at (888) 714-2710 or by mail to:

Fidelity National Financial, Inc.  
601 Riverside Avenue,  
Jacksonville, Florida 32204  
Attn: Chief Privacy Officer

Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF," "our," or "we") respect and are committed to protecting your privacy. This California Privacy Notice explains how we collect, use, and disclose Personal Information, when and to whom we disclose such information, and the rights you, as a California resident ("Consumer"), have regarding your Personal Information ("California Privacy Rights"). Some subsidiaries maintain separate California Privacy Notices or privacy statements. If a subsidiary has a separate California Privacy Notice, it will be available on the subsidiary's website, and this California Privacy Notice does not apply.

**Collection of categories of Personal Information:**

In the preceding 12 months FNF has collected, and will continue to collect, the following categories of Personal Information from you:

Identifiers such as name, address, telephone number, IP address, email address, account name, social security number, driver's license number, state identification card, financial information, date of birth, or other similar identifiers;

- Characteristics of protected classifications under California or Federal law;
- Commercial information, including records of personal property, products or services purchased, or other purchasing or consuming histories;
- Internet or other electronic network activity information including, but not limited to browsing history, search history, and information regarding a Consumer's interaction with an Internet website;
- Geolocation data;
- Professional or employment information;
- Education Information.

**This Personal Information is collected from the following sources:**

- Information we receive from you on applications or other forms;
- Information about your transactions with FNF, our affiliates, or others;
- Information we receive from consumer reporting agencies and/or governmental entities, either directly from these entities or through others;
- Information from the use of our websites and mobile applications.

**This Personal Information is collected for the following business purposes:**

- To provide products and services to you or in connection with a transaction involving you;
- To perform a contract between FNF and the Consumer;
- To improve our products and services;
- To comply with legal obligations;
- To protect against fraudulent or illegal activity;
- To communicate with you about FNF or our affiliates;
- To maintain an account with FNF or our affiliates;
- To provide, support, personalize, and develop our websites, products, and services;
- As described to you when collecting your personal information or as otherwise set forth in the California Consumer Privacy Act.

**Disclosures of Personal Information for a business purpose:**

In the preceding 12 months FNF has disclosed, and will continue to disclose, the categories of Personal Information listed above for a business purpose. We may disclose Personal Information for a business purpose to the following categories of third parties:

- FNF affiliates and subsidiaries;
- Non-affiliated third parties, as directed by you;
- Businesses in connection with the sale or other disposition of all or part of the FNF business and/or assets;
- Service Providers; ☐ Law enforcement or authorities in connection with an investigation, or in response to a subpoena or court order.

**Sale of Personal Information:**

In the preceding 12 months, FNF has not sold Personal Information. FNF does not sell Personal Information.

**Personal Information of minors:**

FNF does not knowingly collect the Personal Information of minors.

**Right to know:**

Consumers have a right to know about Personal Information collected, used, disclosed, or sold. Consumers have the right to request FNF disclose what personal information it collected, used, and disclosed in the past 12 months.

**Right to request deletion:**

Consumers have a right to request the deletion of their personal information.

**Right to non-discrimination:**

Consumers have a right not to be discriminated against by exercising their consumer privacy rights. We will not discriminate against Consumers for exercising any of their California Privacy Rights.

**Right to use an Authorized Agent:**

A Consumer may use an Authorized Agent to submit a request to know or a request to delete his or her information. Should a Consumer utilize an Authorized Agent, FNF will require the Consumer provide the agent written permission to make the request and verify his or her identity with FNF.

**To exercise any of your California Privacy Rights, please follow the link "[California Privacy Request](#)" or call Toll Free 888-413-1748.**

Upon making a California Privacy Request, FNF will verify the consumer's identity by requiring an account, loan, escrow number, or other identifying information from the consumer.

The above-rights are subject to any applicable rights and obligations including both Federal and California exemptions

rendering FNF, or Personal Information collected by FNF, exempt from certain CCPA requirements.

**FNF website services for mortgage loans:**

Certain FNF companies provide services to mortgage loan servicers, including hosting websites that collect customer information on behalf of mortgage loan servicers (the "Service Websites"). The Service Websites may contain links to both this Privacy Notice and the mortgage loan servicer or lender's privacy notice. The sections of this Privacy Notice describing the categories, sources, and uses of your Personal Information do not apply to the Service Websites. The mortgage loan servicer or lender's privacy notice governs use, disclosure, and access to your Information. FNF does not share Information collected through the Service Websites, except (1) as required or authorized by contract with the mortgage loan servicer or lender, or (2) as required by law or in the good-faith belief that such disclosure is necessary to comply with a legal process or applicable law, to enforce this Privacy Notice, or to protect the rights, property, or safety of FNF or the public.

**California Privacy Notice – Effective Date:**

This California Privacy Notice was last updated on August 1, 2021.

**Contact for more information:**

For questions or concerns about FNF's California Privacy Notice and privacy practices, or to exercise any of your

California Privacy Rights, please follow the link "[California Privacy](#)," call Toll Free 888-413-1748, or by mail to the

below address. We may use your Personal Information for our affiliates (companies owned by FNF) to directly market to you. If you do not want FNF affiliates to directly market to you, visit FNF's

"[Opt Out Page](#)" or contact us by phone at

(888) 714-2710, or by mail to:

Fidelity National Financial, Inc.

601 Riverside Avenue

Jacksonville, Florida 32204

Attn: Chief Privacy Officer

## CERTIFICATION OF TRUST

California Probate Code Section 18100.5

The undersigned declare(s) under penalty of perjury under the laws of the State of California that the following is true and correct:

1. The Trust known as \_\_\_\_\_, executed on \_\_\_\_\_, is a valid and existing trust.

2. The names of the settlors of the Trust are:

\_\_\_\_\_  
\_\_\_\_\_

3. The names of the currently acting trustees are:

\_\_\_\_\_  
\_\_\_\_\_

4. The trustees of the Trust have the following powers (initial applicable line(s)):

\_\_\_\_\_ Power to acquire additional property.  
\_\_\_\_\_ Power to sell and execute deeds.  
\_\_\_\_\_ Power to encumber, and execute deeds of trust.  
\_\_\_\_\_ Other:  
\_\_\_\_\_

5. The Trust is (check one): \_\_\_\_\_ Revocable \_\_\_\_\_ Irrevocable  
If revocable, who may revoke the Trust?  
\_\_\_\_\_

6. Are all trustees required to execute the powers of the trustee? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If no, explain trustee's authority:  
\_\_\_\_\_

7. Title to Trust assets is to be taken as follows:  
\_\_\_\_\_

8. The Trust has not been revoked, modified or amended in any manner which would cause the representations contained herein to be incorrect.

9. The trustees signing below are all of the currently acting trustees.

10. The trustees signing below may be required to provide copies of excerpts from the original Trust documents which designate the trustees and confer the power to act in the pending transaction.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF CALIFORNIA } ss:  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, a Notary Public, personally  
(here insert name and title of the officer)  
appeared \_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(This area for notary stamp)

Trust Certification (03/03)

EXHIBIT 3



## **Exhibit 4**

### **Purchase Agreement**



CALIFORNIA  
ASSOCIATION  
OF REALTORS®

Case 8:22-bk-11585-TA

Doc 265

Filed 06/13/23

Entered 06/13/23 11:55:42

Desc

Main Document Page 94 of 144

## ADDENDUM NO. 2

(C.A.R. Form ADM, Revised 12/21)

The following terms and conditions are hereby incorporated in and made a part of the Purchase Agreement, OR ☐ Residential Lease or Month-to-Month Rental Agreement, ☐ Transfer Disclosure Statement (Note: An amendment to the TDS may give the Buyer a right to rescind), ☐ Other \_\_\_\_\_,

dated April 22, 2023, on property known as 38861 Elmwood Dr,

Rancho Mirage, CA 92270 ("Property/Premises"),

in which Christopher A Witham is referred to as ("Buyer/Tenant")

and Richard A. Marshack, Ch 7 Trustee for the Estate of: AB Capital LLC, a California Limited Liability Company is referred to as ("Seller/Landlord").

Buyer/Tenant and Seller/Landlord are referred to as the "Parties."

Purchase price to be \$415,000 (Four hundred fifteen thousand dollars)

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this Addendum.

Buyer/Tenant  Date 05/03/2023

Christopher A Witham

Buyer/Tenant \_\_\_\_\_ Date \_\_\_\_\_

**Seller/Landlord** \_\_\_\_\_ **Date** \_\_\_\_\_

Richard A. Marshack, Ch 7 Trustee for the Estate of: AB Capital LLC, a California Limited Liability Company

Seller/Landlord RAM, Bankruptcy Trustee, signed per Addendum Date \_\_\_\_\_

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525 South Virgil Avenue, Los Angeles, California 90020



ADM REVISED 12/21 (PAGE 1 OF 1)

### ADDENDUM (ADM PAGE 1 OF 1)

Vanguard Properties, 2501 Mission St San Francisco CA 94110  
Dimitri Rigopoulos

Phone: 4156559007  
Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201

Fax:  
[www.lwolf.com](http://www.lwolf.com)

38861 Elmwood

EXHIBIT 4

Main Document Page 95 of 144  
**RESIDENTIAL PURCHASE AGREEMENT  
AND JOINT ESCROW INSTRUCTIONS**

(C.A.R. Form RPA-CA, Revised 12/15)

Date Prepared 4/22/2023**1. OFFER:**

- A. **THIS IS AN OFFER FROM** Christopher A Whitham ("Buyer").
- B. **THE REAL PROPERTY** to be acquired is 38861 Elmwood Drive, situated in Rancho Mirage (City), Orange (County), California, 92270-2916 (Zip Code), Assessor's Parcel No. 689-140-004 ("Property").
- C. **THE PURCHASE PRICE** offered is Three hundred ninety nine thousand nine hundred dollars Dollars \$ \$399,900
- D. **CLOSE OF ESCROW** shall occur on ☒ Date Specified in Escrow Instructions (date) or ☐ Days After Acceptance (days).
- E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.

**2. AGENCY:**

- A. **DISCLOSURE:** The Parties each acknowledge receipt of a ☒ "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD).
- B. **CONFIRMATION:** The following agency relationships are hereby confirmed for this transaction:  
Listing Agent Berkshire Hathaway HomeServices CA Properties (Print Firm Name) is the agent of (check one):  
☒ the Seller exclusively; or ☐ both the Buyer and Seller.  
Selling Agent Vanguard Properties (Print Firm Name) (if not the same as the Listing Agent) is the agent of (check one): ☒ the Buyer exclusively; or ☐ the Seller exclusively; or ☐ both the Buyer and Seller.

- C. **POTENTIALLY COMPETING BUYERS AND SELLERS:** ~~The Parties each acknowledge receipt of a "Possible Representation of More than One Buyer or Seller Disclosure and Consent" (C.A.R. Form PRBS).~~

**3. FINANCE TERMS:** Buyer represents that funds will be good when deposited with Escrow Holder.

- A. **INITIAL DEPOSIT:** Deposit shall be in the amount of \$ 20,000

(1) Buyer Direct Deposit: Buyer shall deliver ~~deposit directly to Escrow Holder by electronic funds transfer, ☒ cashier's check, ☐ personal check, ☐ other.~~ Made out to the Trustee within 3 business days after Acceptance (or

~~OR (2) ☐ Buyer Deposit with Agent: Buyer has given the deposit by personal check (or~~ to the agent submitting the offer (or to

\_\_\_\_\_, made payable to \_\_\_\_\_. The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within 3 business days after Acceptance (or \_\_\_\_\_). Deposit checks given to agent shall be an original signed check and not a copy.

(Note: Initial and increased deposits checks received by agent shall be recorded in Broker's trust fund log.)

- B. **INCREASED DEPOSIT:** ~~Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ \_\_\_\_\_ within \_\_\_\_\_ Days After Acceptance (or \_\_\_\_\_).~~

~~If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.~~

- C. ☐ **ALL CASH OFFER:** No loan is needed to purchase the Property. ~~This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or Buyer shall, within 3 (or \_\_\_\_\_) Days After Acceptance, Deliver to Seller such verification.~~

**D. LOAN(S):**

- ~~(1) **FIRST LOAN:** in the amount of \$ \_\_\_\_\_~~

~~This loan will be conventional financing or ☐ FHA, ☐ VA, ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ Other \_\_\_\_\_. This loan shall be at a fixed rate not to exceed \_\_\_\_\_ % or, ☐ an adjustable rate loan with initial rate not to exceed \_\_\_\_\_ %. Regardless of the type of loan, Buyer shall pay points not to exceed \_\_\_\_\_ % of the loan amount.~~

- ~~(2) **SECOND LOAN** in the amount of \$ \_\_\_\_\_~~

~~This loan will be conventional financing or ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ Other \_\_\_\_\_. This loan shall be at a fixed rate not to exceed \_\_\_\_\_ % or, ☐ an adjustable rate loan with initial rate not to exceed \_\_\_\_\_ %. Regardless of the type of loan, Buyer shall pay points not to exceed \_\_\_\_\_ % of the loan amount.~~

- ~~(3) **FHA/VA:** For any FHA or VA loan specified in 3D(1), Buyer has 17 (or \_\_\_\_\_) Days After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or otherwise correct. Seller has no obligation to pay or satisfy lender requirements unless agreed in writing. A FHA/VA amendatory clause (C.A.R. Form FVAC) shall be a part of this Agreement.~~

**E. ADDITIONAL FINANCING TERMS:** \_\_\_\_\_

- F. **BALANCE OF DOWN PAYMENT OR PURCHASE PRICE** in the amount of \$ \_\_\_\_\_ to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

- G. **PURCHASE PRICE (TOTAL):** \$ 399,900

Buyer's Initials ( ② ) ( \_\_\_\_\_ )

© 1991-2015, California Association of REALTORS®, Inc.

Seller's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

RAM, Bankruptcy Trustee, signed per Addendum



RPA-CA REVISED 12/15 (PAGE 1 OF 10)

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 1 OF 10)

H. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS: Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within 3 (or \_\_\_\_\_) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (☒ Verification attached.)

I. APPRAISAL CONTINGENCY AND REMOVAL: This Agreement is (or ☒ is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. ~~Buyer shall, as specified in paragraph 44B(3), in writing, remove the appraisal contingency or cancel this Agreement within 17 (or \_\_\_\_\_) Days After Acceptance.~~

J. LOAN TERMS:

(1) LOAN APPLICATIONS: Within 3 (or \_\_\_\_\_) Days After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. (☐ Letter attached.)

(2) LOAN CONTINGENCY: Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above is a contingency of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are not contingencies of this Agreement.

(3) LOAN CONTINGENCY REMOVAL: Within 21 (or \_\_\_\_\_) Days After Acceptance, Buyer shall, as specified in paragraph 14, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.

(4) ☐ NO LOAN CONTINGENCY: Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

(5) LENDER LIMITS ON BUYER CREDITS: Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

K. BUYER STATED FINANCING: Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

4. SALE OF BUYER'S PROPERTY:

A. This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.

~~OR B. ☐ This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).~~

5. ADDENDA AND ADVISORIES:

A. ADDENDA:	<input type="checkbox"/> Addendum # _____ (C.A.R. Form ADM)
<input type="checkbox"/> Back Up Offer Addendum (C.A.R. Form BUO)	<input type="checkbox"/> Court Confirmation Addendum (C.A.R. Form CCA)
<input type="checkbox"/> Septic, Well and Property Monument Addendum (C.A.R. Form SWPI)	
<input type="checkbox"/> Short Sale Addendum (C.A.R. Form SSA)	<input type="checkbox"/> Other _____
B. BUYER AND SELLER ADVISORIES:	<input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA)
<input type="checkbox"/> Probate Advisory (C.A.R. Form PA)	<input type="checkbox"/> Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
<input type="checkbox"/> Trust Advisory (C.A.R. Form TA)	<input type="checkbox"/> REO Advisory (C.A.R. Form REO)
<input type="checkbox"/> Short Sale Information and Advisory (C.A.R. Form SSIA)	<input type="checkbox"/> Other _____

6. OTHER TERMS: PROPERTY TO BE SOLD IN "AS-IS", "WHERE-IS" CONDITION WITH ALL FAULTS AND WITHOUT ANY WARRANTIES, EXPRESSED OR IMPLIED. PEST CONTROL/TERMITE INSPECTION REPORT AND ANY CORRECTIVE WORK WILL NOT BE PROVIDED, COMPLETED BY NOR PAID FOR BY SELLER. TRUSTEE'S ADDENDUM TO EXCLUSIVE AND RIGHT TO SELL IS INCORPORATED HEREIN IN ITS ENTIRETY.

7. ALLOCATION OF COSTS

A. INSPECTIONS, REPORTS AND CERTIFICATES: Unless otherwise agreed in writing, this paragraph only determines who is to pay for the inspection, test, certificate or service ("Report") mentioned; it does not determine who is to pay for any work recommended or identified in the Report.

- (1) ☐ Buyer ☒ Seller shall pay for a natural hazard zone disclosure report, including tax ☐ environmental ☐ Other: \_\_\_\_\_ prepared by Seller's Choice
- (2) ☐ Buyer ☐ Seller shall pay for the following Report \_\_\_\_\_ prepared by \_\_\_\_\_
- (3) ☐ Buyer ☐ Seller shall pay for the following Report \_\_\_\_\_ prepared by \_\_\_\_\_

Buyer's Initials (   e   ) ( \_\_\_\_\_ )

Seller's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

RPA-CA REVISED 12/15 (PAGE 2 OF 10) CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 2 OF 10)

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RAM, Bankruptcy Trustee, signed per Addendum

 EQUAL HOUSING OPPORTUNITY

**B. GOVERNMENT REQUIREMENTS AND RETROFIT:**

- (1) ☒ Buyer ☐ Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.
- ~~(2) (i) ☐ Buyer ☐ Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.~~
- ~~(ii) ☐ Buyer ☐ Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.~~
- ~~(iii) Buyer shall be provided, within the time specified in paragraph 14A, a copy of any required government conducted or point of sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.~~

**C. ESCROW AND TITLE:**

- (1) (a) ☒ Buyer ☒ Seller shall pay escrow fee each to pay their own
- (b) Escrow Holder shall be Seller's Choice
- (c) The Parties shall, within 5 (or ) Days After receipt, sign and return Escrow Holder's general provisions.
- (2) (a) ☐ Buyer ☒ Seller shall pay for owner's title insurance policy specified in paragraph 13E
- (b) Owner's title policy to be issued by Seller's Choice
- (Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

**D. OTHER COSTS:**

- (1) ☐ Buyer ☒ Seller shall pay County transfer tax or fee
- (2) ☐ Buyer ☐ Seller shall pay City transfer tax or fee
- (3) ☐ Buyer ☐ Seller shall pay Homeowners' Association ("HOA") transfer fee split 50/50
- ~~(4) Seller shall pay HOA fees for preparing documents required to be delivered by Civil Code §4525.~~
- (4) ☒ Buyer ☐ Seller shall pay HOA fees for preparing all documents other than those required by Civil Code §4525.
- (6) Buyer to pay for any HOA certification fee.
- (7) ☐ Buyer ☐ Seller shall pay for any private transfer fee
- (8) ☐ Buyer ☐ Seller shall pay for
- (9) ☐ Buyer ☐ Seller shall pay for
- (10) ☐ Buyer ☒ Seller shall pay for the cost, not to exceed \$ \_\_\_\_\_, of a standard (or ☐ upgraded) one-year home warranty plan, issued by Click here to select your Service Provider., with the following optional coverages: ☐ Air Conditioner ☐ Pool/Spa ☐ Other: \_\_\_\_\_
- Buyer is informed that home warranty plans have many optional coverages in addition to those listed above. Buyer is advised to investigate these coverages to determine those that may be suitable for Buyer.

OR ☐ Buyer waives the purchase of a home warranty plan. Nothing in this paragraph precludes Buyer's purchasing a home warranty plan during the term of this Agreement.

**8. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:**

A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in paragraph 8 B or C.

B. ITEMS INCLUDED IN SALE: Except as otherwise specified or disclosed,

- (1) All EXISTING fixtures and fittings that are attached to the Property;
- (2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers, security systems/alarms and the following if checked: ☒ all stove(s), except \_\_\_\_\_; ☐ all refrigerator(s) except \_\_\_\_\_; ☐ all washer(s) and dryer(s), except \_\_\_\_\_
- (3) The following additional items: \_\_\_\_\_
- (4) Existing integrated phone and home automation systems, including necessary components such as intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are (☐ are NOT) included in the sale.
- (5) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller shall, within the time specified in paragraph 14A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item. Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 14B and C.
- (6) Seller represents that all items included in the purchase price, unless otherwise specified, (i) are owned by Seller and shall be transferred free and clear of liens and encumbrances, except the items and systems identified pursuant to 8B(5) and \_\_\_\_\_, and (ii) are transferred without Seller warranty regardless of value.

C. **ITEMS EXCLUDED FROM SALE:** Unless otherwise specified, the following items are excluded from sale: (i) audio and video components (such as flat screen TVs, speakers and other items) if any such item is not itself attached to the Property, even if a bracket or other mechanism attached to the component or item is attached to the Property; (ii) furniture and other items secured to the Property for earthquake purposes; and (iii) \_\_\_\_\_

\_\_\_\_\_ Brackets attached to walls, floors or ceilings for any such component, furniture or item shall remain with the Property (or ☐ will be removed and holes or other damage shall be repaired, but not painted).

Buyer's Initials (   *EB*   ) ( \_\_\_\_\_ )

Seller's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

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RAM, Bankruptcy Trustee, signed per Addendum

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 3 OF 10)

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9. CLOSING AND POSSESSION:
- A. Buyer intends (or ☐ does not intend) to occupy the Property as Buyer's primary residence.
  - B. **Seller-occupied or vacant property:** Possession shall be delivered to Buyer: (i) at 6 PM or ( ☐ AM/ ☐ PM) on the date of Close Of Escrow; (ii) ☐ no later than ☐ calendar days after Close Of Escrow; or (iii) ☐ at ☐ AM/ ☐ PM on ☐.
  - ~~C. Seller remaining in possession After Close Of Escrow: If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as ☐ C.A.R. Form SIP, for Seller continued occupancy of less than 30 days, ☐ C.A.R. Form RLAS for Seller continued occupancy of 30 days or more; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.~~
  - D. **Tenant-occupied property: Property shall be vacant at least 5 (or ☐) Days Prior to Close Of Escrow, unless otherwise agreed in writing. Note to Seller: If you are unable to deliver Property vacant in accordance with rent control and other applicable Law, you may be in breach of this Agreement.**

- OR ☐ **Tenant to remain in possession (C.A.R. Form TIP).**
- ~~E. At Close Of Escrow, Seller assigns to Buyer any assignable warranty rights for items included in the sale; and Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.~~
  - F. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.

**10. STATUTORY AND OTHER DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:**

- A. (1) Seller shall, within the time specified in paragraph 14A, Deliver to Buyer: (i) if required by Law, a fully completed: Federal Lead-Based Paint Disclosures (C.A.R. Form FLD) and pamphlet ("Lead Disclosures"); and (ii) unless exempt, fully completed disclosures or notices required by sections 1102 et. seq. and 1103 et. seq. of the Civil Code ("Statutory Disclosures"). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement ("TDS"), Natural Hazard Disclosure Statement ("NHD"), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Mello-Roos Community Facilities Act of 1982 and Improvement Bond Act of 1915) and, if Seller has actual knowledge, of industrial use and military ordnance location (C.A.R. Form SPQ or ESD).
- (2) Any Statutory Disclosure required by this paragraph is considered fully completed if Seller has answered all questions and completed and signed the Seller section(s) and the Listing Agent, if any, has completed and signed the Listing Broker section(s), or, if applicable, an Agent Visual Inspection Disclosure (C.A.R. Form AVID). Nothing stated herein relieves a Buyer's Broker, if any, from the obligation to (i) conduct a reasonably competent and diligent visual inspection of the accessible areas of the Property and disclose, on Section IV of the TDS, or an AVID, material facts affecting the value or desirability of the Property that were or should have been revealed by such an inspection or (ii) complete any sections on all disclosures required to be completed by Buyer's Broker.
- (3) **Note to Buyer and Seller: Waiver of Statutory and Lead Disclosures is prohibited by Law.**
- (4) Within the time specified in paragraph 14A, (i) Seller, unless exempt from the obligation to provide a TDS, shall, complete and provide Buyer with a Seller Property Questionnaire (C.A.R. Form SPQ); (ii) if Seller is not required to provide a TDS, Seller shall complete and provide Buyer with an Exempt Seller Disclosure (C.A.R. Form ESD).
- (5) Buyer shall, within the time specified in paragraph 14B(1), return Signed Copies of the Statutory, Lead and other disclosures to Seller.
- (6) In the event Seller or Listing Broker, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.**
- (7) If any disclosure or notice specified in paragraph 10A(1), or subsequent or amended disclosure or notice is Delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within **3 Days After Delivery in person, or 5 Days After Delivery by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent.**
- B. **NATURAL AND ENVIRONMENTAL HAZARD DISCLOSURES AND OTHER BOOKLETS:** Within the time specified in paragraph 14A, Seller shall, if required by Law: (i) Deliver to Buyer earthquake guide(s) (and questionnaire), environmental hazards booklet, and home energy rating pamphlet; (ii) disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; and Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.
- C. **WITHHOLDING TAXES:** Within the time specified in paragraph 14A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law (C.A.R. Form AS or QS).
- D. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers do not have expertise in this area.)
- E. **NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES:** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at <http://www.npms.phmsa.dot.gov/>. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.
- F. **CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**  
(i) **SELLER HAS: 7 (or ☐) Days After Acceptance to disclose to Buyer if the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form SPQ or ESD).**

Buyer's Initials (   *CE*   ) (            ) Seller's Initials (            ) (            )  
RPA-CA REVISED 12/15 (PAGE 4 OF 10) RAM, Bankruptcy Trustee, signed per Addendum



(2) If the Property is a condominium, Main Document Page 99 of 144  
 3 (or ) Days After Acceptance to request from the HOA (C.A.R. Form HOA1): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the HOA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of HOA minutes for regular and special meetings; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). (vi) private transfer fees; (vii) Pet fee restrictions; and (viii) smoking restrictions. Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 14B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to HOA or management company to pay for any of the above.

11. **CONDITION OF PROPERTY:** Unless otherwise agreed in writing: (i) the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.

~~A. Seller shall, within the time specified in paragraph 14A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.~~

~~B. Buyer has the right to conduct Buyer Investigations of the Property and, as specified in paragraph 14B, based upon information discovered in these investigations: (i) cancel this Agreement; or (ii) request that Seller make repairs or take other action.~~

C. Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.

12. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:** ~~NOT~~

A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 14B. Within the time specified in paragraph 14B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to: (i) a general physical inspection; (ii) an inspection specifically for wood destroying pests and organisms. Any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infections (Section 1) and for conditions likely to lead to infestation or infection (Section 2); (iii) inspect for lead-based paint and other lead-based paint hazards; (iv) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA); (v) review the registered sex offender database; (vi) confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; and (vii) review and seek approval of leases that may need to be assumed by Buyer. Without Seller's prior written consent, Buyer shall neither make nor cause to be made: invasive or destructive Buyer Investigations, except for minimally invasive testing required to prepare a Pest Control Report; or inspections by any governmental building or zoning inspector or government employee, unless required by Law.

B. Seller shall make the Property available for all Buyer Investigations. Buyer shall (i) as specified in paragraph 14B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and (ii) give Seller, at no cost, complete copies of all such investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.

C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.

D. **Buyer indemnity and seller protection for entry upon property:** Buyer shall: (i) keep the Property free and clear of liens; (ii) repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

13. **TITLE AND VESTING:**

~~A. Within the time specified in paragraph 14, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 14B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.~~

B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: (i) monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.

~~C. Within the time specified in paragraph 14A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.~~

D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

Buyer's Initials (  ) ( )  
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Seller's Initials ( ) ( )  
 RAM, Bankruptcy Trustee, signed per Addendum

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E. Buyer shall receive a CLTA/ALTA "Homeowner's Policy" of title insurance, if applicable to the type of property and buyer. If not, Escrow Holder shall notify Buyer. A title company can provide information about the availability, coverage, and cost of other title policies and endorsements. If the Homeowner's Policy is not available, Buyer shall choose another policy, instruct Escrow Holder in writing and shall pay any increase in cost.

**14. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS:** The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).

A. **SELLER HAS: 7 (or \_\_\_\_ ) Days** After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5, 6, 7, 8B(5), 10A, B, C, and F, 11A and 13A. If, by the time specified, Seller has not Delivered any such item, Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement.

B. (1) **BUYER HAS: 17 (or \_\_\_\_ ) Days** After Acceptance, unless otherwise agreed in writing, to: (i) complete all Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(5), and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and (ii) Deliver to Seller Signed Copies of Statutory and Lead Disclosures and other disclosures Delivered by Seller in accordance with paragraph 10A.

(2) Within the time specified in paragraph 14B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.

(3) By the end of the time specified in paragraph 14B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 14A, then Buyer has 5 (or \_\_\_\_ ) Days After Delivery of any such items, or the time specified in paragraph 14B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.

(4) **Continuation of Contingency:** Even after the end of the time specified in paragraph 14B(1) and before Seller cancels, if at all, pursuant to paragraph 14D, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 14D(1).

(5) **Access to Property:** Buyer shall have access to the Property to conduct inspections and investigations for 17 (or \_\_\_\_ ) Days After Acceptance, whether or not any part of the Buyer's Investigation Contingency has been waived or removed.

C. ☐ **REMOVAL OF CONTINGENCIES WITH OFFER:** Buyer removes the contingencies specified in the attached Contingency Removal form (C.A.R. Form CR). If Buyer removes any contingency without an adequate understanding of the Property's condition or Buyer's ability to purchase, Buyer is acting against the advice of Broker.

D. **SELLER RIGHT TO CANCEL:**

(1) **Seller right to Cancel; Buyer Contingencies:** If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

(2) **Seller right to Cancel; Buyer Contract Obligations:** Seller, after first delivering to Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): (i) Deposit funds as required by paragraph 3A, or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; (ii) Deliver a notice of FHA or VA costs or terms as required by paragraph 3D(3) (C.A.R. Form EVA); (iii) Deliver a letter as required by paragraph 3J(1); (iv) Deliver verification, or a satisfactory verification if Seller reasonably disapproves of the verification already provided, as required by paragraph 3C or 3H; (v) In writing assume or accept leases or liens specified in 8B5; (vi) Return Statutory and Lead Disclosures as required by paragraph 10A(5); or (vii) Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 21B; or (viii) Provide evidence of authority to sign in a representative capacity as specified in paragraph 19. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

E. **NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: (i) be in writing; (ii) be signed by the applicable Buyer or Seller; and (iii) give the other Party at least 2 (or \_\_\_\_ ) Days After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than 2 Days Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 14.

F. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: (i) completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.

G. **CLOSE OF ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: (i) be signed by the applicable Buyer or Seller; and (ii) give the other Party at least 3 (or \_\_\_\_ ) Days After Delivery to close escrow. A DCE may not be Delivered any earlier than 3 Days Prior to the scheduled close of escrow.

H. **EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, **release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award.** If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit. (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within 10 Days After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursement of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. **A Party may be subject to a civil penalty of up to \$1,000 for refusal to sign cancellation instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).**

Buyer's Initials ( ) ( )  
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Seller's Initials ( ) ( )  
 RAM, Bankruptcy Trustee, signed per Addendum




CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 6 OF 10)

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15. **FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property within 5 (or ☐ ) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 11; (ii) ~~Repairs have been completed as agreed; and~~ (iii) Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).
16. **REPAIRS:** ~~Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: (i) obtain invoices and paid receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.~~
17. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
18. **BROKERS:**
- A. **COMPENSATION:** Seller or Buyer, or both, as applicable, agree to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, ~~or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.~~
- B. **SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Broker: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; (v) Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; (vi) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vii) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (viii) Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (ix) Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; (x) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (xi) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.
19. **REPRESENTATIVE CAPACITY:** If one or more Parties is signing this Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 31 or 32 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on this Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall Deliver to the other Party and Escrow Holder, ~~within 3 Days After Acceptance,~~ evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code §18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).
20. **JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**
- A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5A, 6, 7, 10C, 13, 14G, 17, 18A, 19, 20, 26, 29, 30, 31, 32 and paragraph D of the section titled Real Estate Brokers on page 10. If a Copy of the separate compensation agreement(s) provided for in paragraph 18A, or paragraph D of the section titled Real Estate Brokers on page 10 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within 3 (or ☐ ) Days, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 10 or elsewhere in this Agreement.
- B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within 3 Days After Acceptance (or ☐ ). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 10C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.

Buyer's Initials (  ) (  )  
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Seller's Initials (  ) (  )

RAM, Bankruptcy Trustee, signed per Addendum  
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- C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 18A and paragraph D of the section titled Real Estate Brokers on page 10. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 18A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.
- D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: (i) if Buyer's initial or any additional deposit or down payment is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.
- E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 3 Days after mutual execution of the amendment.

**21. REMEDIES FOR BUYER'S BREACH OF CONTRACT:**

- A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.
- B. **LIQUIDATED DAMAGES:** If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Except as provided in paragraph 14H, release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. **AT THE TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R. FORM RID).**

Buyer's Initials \_\_\_\_\_ / \_\_\_\_\_

Seller's Initials \_\_\_\_\_ / \_\_\_\_\_

**22. DISPUTE RESOLUTION:**

- A. **MEDIATION:** The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Real Estate Mediation Center for Consumers ([www.consumermediation.org](http://www.consumermediation.org)) or through any other mediation provider or service mutually agreed to by the Parties. The Parties also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. **THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. Exclusions from this mediation agreement are specified in paragraph 22C.**

**B. ARBITRATION OF DISPUTES:**

The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 22C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials \_\_\_\_\_ / \_\_\_\_\_

Seller's Initials \_\_\_\_\_ / \_\_\_\_\_

**C. ADDITIONAL MEDIATION AND ARBITRATION TERMS:**

- (1) **EXCLUSIONS:** The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.

Buyer's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

Seller's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

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RAM, Bankruptcy Trustee, signed per Addendum

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~~(2) PRESERVATION OF ACTIONS: The following shall not constitute a waiver not violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.~~

~~(3) BROKERS: Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Brokers participating in mediation or arbitration shall not be deemed a party to this Agreement.~~

23. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.

24. **MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.

~~25. ATTORNEY FEES: In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 22A.~~

26. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the separate written consent of Seller to a specified assignee. Such consent shall not be unreasonably withheld. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller. (C.A.R. Form AOAA).

27. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.

28. **TERMS AND CONDITIONS OF OFFER:**

This is an offer to purchase the Property on the above terms and conditions. ~~The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all Parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. The Parties have read and acknowledge receipt of a Copy of the offer and agree to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.~~

29. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**

30. **DEFINITIONS:** As used in this Agreement:

- A. **"Acceptance"** means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
- B. **"Agreement"** means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.
- C. **"C.A.R. Form"** means the most current version of the specific form referenced or another comparable form agreed to by the parties.
- D. **"Close Of Escrow"**, including "COE", means the date the grant deed, or other evidence of transfer of title, is recorded.
- E. **"Copy"** means copy by any means including photocopy, NCR, facsimile and electronic.
- F. **"Days"** means calendar days. However, after Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
- G. **"Days After"** means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
- H. **"Days Prior"** means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
- I. **"Deliver", "Delivered" or "Delivery"**, unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 10, regardless of the method used (i.e., messenger, mail, email, fax, other).
- J. **"Electronic Copy" or "Electronic Signature"** means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
- K. **"Law"** means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
- L. **"Repairs"** means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
- M. **"Signed"** means either a handwritten or electronic signature on an original document, Copy or any counterpart.

~~31. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by ☐ AM/ ☐ PM, on (date)).~~

☐ One or more Buyers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-B) for additional terms.

Date 04/23/23 BUYER  
(Print name) Christopher A Witham

Date BUYER  
(Print name)

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 9 OF 10)

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Seller's Initials ( ) ( )

RAM, Bankruptcy Trustee, signed per Addendum



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EXHIBIT 4

☐ One or more Sellers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-S) for additional terms.

Date \_\_\_\_\_ SELLER \_\_\_\_\_  
(Print name)

(\_\_\_\_/\_\_\_\_/\_\_\_\_) (Do not initial if making a counter offer.) **CONFIRMATION OF ACCEPTANCE:** A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) \_\_\_\_\_ at \_\_\_\_\_  
(Initials) ☐ AM/ ☐ PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

**D. COOPERATING BROKER COMPENSATION:** Listing Broker agrees to pay Cooperating Broker (**Selling Firm**) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow, the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Listing Broker and Cooperating Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

		<b>Vanguard Properties</b>		CalBRE Lic. # <b>01486075</b>	
Real Estate Broker (Selling Firm) <b>Dimitri Rigopoulos</b>		CalBRE Lic. # <b>01401522</b>		Date <b>04/22/23</b>	
By _____		CalBRE Lic. # _____		Date _____	
Address _____		City _____		State _____ Zip _____	
Telephone _____ Fax _____		E-mail _____			
Real Estate Broker (Listing Firm) _____		CalBRE Lic. # _____			
By _____ <b>Clarence Yoshikane</b>		CalBRE Lic. # <b>00801398</b>		Date _____	
By _____ <b>Krista Coyle</b>		CalBRE Lic. # _____		Date _____	
Address <b>1400 Newport Center Drive, Suite 200</b>		City <b>Newport Beach</b>		State <b>CA</b> Zip <b>92660</b>	
Telephone <b>714.606.5765</b> Fax _____		E-mail <b>J_Toyama@verizon.net</b>			

☐ Department of Business Oversight, ☐ Department of Insurance, ☐ Bureau of Real Estate.

**PRESENTATION OF OFFER:** ( \_\_\_\_\_ ) Listing Broker presented this offer to Seller on \_\_\_\_\_ (date).  
Broker or Designee Initials

REJECTION OF OFFER: ( ) ( ) No counter offer is being made. This offer was rejected by Seller on \_\_\_\_\_ (date).  
Seller's Initials

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THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ACCURACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.

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Reviewed by  
Broker or Designee

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The following terms and conditions are hereby incorporated in and made a part of the Purchase Agreement, OR ☐ Residential Lease or Month-to-Month Rental Agreement, ☐ Transfer Disclosure Statement (Note: An amendment to the TDS may give the Buyer a right to rescind), ☐ Other \_\_\_\_\_, dated 4/22/23, on property known as 38861 Elmwood Dr, Rancho Mirage, CA 92270-2916

in which Christopher A. Whitham ("Property/Premises"), is referred to as ("Buyer/Tenant") and Richard A. Marshack, Ch 7 Trustee ... is referred to as ("Seller/Landlord").

Buyer/Tenant and Seller/Landlord are referred to as the "Parties."

**Minimum Initial Overbid to be at Least \$5,000 with Subsequent Overbids to be \$1,000 or an Amount Acceptable to the Trustee. Overbidder to match all terms and conditions of original bid. If a successful Overbidder is accepted and confirmed by the Court, then the successful Overbidder is to reimburse the Original Bidder up to: \$1,000 costs incurred. Only Physical Inspection, Termite Inspection, and Loan Appraisal are Reimbursable Expenses. Aforementioned Costs incurred to be collected by Escrow. Proof of monies spent to be given to Overbidder along with Inspection Reports.**

**Buyer Acknowledges that the Trustee is a Fiduciary and is Obligated to obtain the best transaction for the estate. Trustee may Terminate this Agreement if he has a better transaction. If a motion to sell has been filed the Trustee may recommend acceptance of another offer. Buyer Acknowledges that Trustee is signing this agreement so the Buyer can start the process to obtain Loan Approval. So the Buyer is prepared to Bid in the Event there is an Auction. Buyer Acknowledges that the Trustee may Terminate this agreement and accept another offer if it is a better offer.**

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this Addendum.

Buyer/Tenant  Date 04/23/23

Buyer/Tenant \_\_\_\_\_ Date \_\_\_\_\_

Seller/Landlord \_\_\_\_\_ Date \_\_\_\_\_

Seller/Landlord Richard A. Marshack, Ch 7 Trustee for the Estate of: AB Capital LLC, a California Limited Liability Company  
RAM, Bankruptcy Trustee, signed per Addendum Date \_\_\_\_\_

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ADDENDUM (ADM PAGE 1 OF 1)



In accordance with the terms and conditions of the Purchase Agreement, OR ☐ Request For Repair (C.A.R. Form RR), ☐ Response And Reply To Request For Repair (C.A.R. Form RRRR), ☐ Other \_\_\_\_\_

dated 04/22/2023, ("Agreement"),  
on property known as 38861 Elmwood Dr, Rancho Mirage, CA 92270 ("Property"),  
between Christopher A Witham ("Buyer"),  
and Richard A. Marshack, Ch 7 Trustee ("Seller").

Buyer and Seller are referred to as the "Parties."

1. **BUYER REMOVAL OF BUYER CONTINGENCIES:** With respect to any contingency and cancellation right that Buyer removes, unless Otherwise Agreed in a separate written agreement between Buyer and Seller, Buyer shall conclusively be deemed to have: (i) completed all Buyer Investigations and review of reports and other applicable information and disclosures; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and, expense, if any, for Repairs, corrections, or for the inability to obtain financing. Waiver of statutory disclosures is prohibited by law.
2. **Buyer removes ONLY the following individually checked Buyer contingencies:** (Paragraph numbers refer to C.A.R. Form RPA. Applicable paragraph numbers may be different for different forms.)
  - A. ☐ Loan (Paragraph 3L(1) and 8A)
  - B. ☐ Appraisal (Paragraph 3L(2) and 8B)
  - C. Investigation of Property (Paragraph 3L(3), 8C, and 12)
    - (1) ☐ Entire Buyer's Investigation Contingency (Paragraph 12)
  - OR (2) ☐ Only the part of the Investigation related to inspections concerning physical attributes of the Property (Paragraph 12B(1))
  - OR (3) ☐ All Buyer Investigations other than the physical attributes (Paragraph 12B(2))
  - OR (4) ☐ Entire Buyer's Investigation Contingency, EXCEPT \_\_\_\_\_
  - D. Review of Seller Documents:
    - (1) ☐ Review of All Seller Documents (Paragraph 3L(4), 8D, 9B(6), 10A, and 11)
  - OR (2) ☐ Review of All Seller Documents, EXCEPT ☐ Government Reports (Paragraph 10A); ☐ Statutory and other Disclosures (Paragraph 11); ☐ Other \_\_\_\_\_
  - E. ☐ Preliminary ("Title") Report (Paragraph 3L(5), 8E, and 13)
  - F. ☐ Common Interest (HOA or OA) Disclosures (Paragraph 3L(6), 8F and 11L)
  - G. ☐ Review of leased or lien items (Paragraph 3L(7), 8G, and 9B(6))
  - H. ☐ Sale of Buyer's Property (Paragraph 3L(8) and 8J, C.A.R. Form COP, paragraph 1B and C)(check one or both boxes below)
 

☐ Entering into contract for Buyer's Property
 ☐ Close of Escrow on Buyer's Property
  - I. ☐ Other: \_\_\_\_\_
3. ☐ **ALL Buyer contingencies are removed, EXCEPT:** ☐ Loan Contingency (Paragraph 3L(1) and 8A); ☐ Appraisal Contingency (Paragraph 3L(2) and 8B); ☐ Contingency for the Close of Buyer's Property (Paragraph 3L(8) and 8J); ☐ Condominium/Planned Development (HOA) Disclosures (Paragraph 3L(6), 8F and 11L); ☐ Other \_\_\_\_\_
4. ☒ **BUYER HEREBY REMOVES ANY AND ALL BUYER CONTINGENCIES.**
5. **Once all contingencies are removed, whether or not Buyer has satisfied themselves regarding all contingencies or received any information relating to those contingencies, Buyer may not be entitled to a return of Buyer's deposit if Buyer does not close escrow. This could happen even if, for example, Buyer does not approve of some aspect of the Property or lender does not approve Buyer's loan.**

**NOTE:** If this form is attached to a Request for Repairs (C.A.R. Form RR), Seller Response and Buyer Reply to Request for Repairs (C.A.R. Form RRRR), or another form or document such as an addendum (C.A.R. Form ADM) or Amendment to Existing Agreement (C.A.R. Form AEA) it is only valid if Buyer and Seller agree to the requests made on that form or document.

Buyer Christopher A Witham Date 04/23/2023  
Buyer \_\_\_\_\_ Date \_\_\_\_\_

#### 6. SELLER REMOVAL OF SELLER CONTINGENCIES:

**NOTE:** This section is solely for the purpose of removing Seller contingencies and should only be signed by Seller if they are removing Seller contingencies.

Seller hereby removes the following Seller contingencies:

- ☐ Finding of replacement property (C.A.R. Form SPRP); ☐ Closing on replacement property (C.A.R. Form SPRP)  
☐ Other \_\_\_\_\_

Seller \_\_\_\_\_ Date \_\_\_\_\_  
Seller \_\_\_\_\_ Date \_\_\_\_\_

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#### CONTINGENCY REMOVAL (CR PAGE 1 OF 1)

## ADDENDUM TO PURCHASE AGREEMENT

This Addendum ("Addendum") to Residential Purchase Agreement and Joint Escrow Instructions dated April 22, 2023 ("Agreement") is entered into effective April 22, 2023, by and between Christopher A. Witham (hereinafter "Buyer") and Richard A. Marshack, Chapter 7 Bankruptcy Trustee ("Trustee"), in the case entitled AB Capital LLC ("Debtor"), Case No.: 8:22-bk-11575-TA ("Case") currently pending in the United States Bankruptcy Court, in the Central District of California ("Court"), regarding 38861 Elmwood Drive, Rancho Mirage, Ca. APN: 689-140-004 ("Property").

### RECITALS

The owner of the Property, Joshua R. Pukini, Trustee of the Joshua R. Pukini Trust dated 6/27/13 ("Owner"), is a related entity to Debtor. The Property is not technically property of the Bankruptcy Estate; however, Trustee is selling the Property pursuant to a Preliminary Injunction entered November 30, 2022 in an adversary proceeding entitled *Marshack v. Pukini et. al.*, Adversary Case No. 8:22-ap-01091-TA currently pending in the Court. The Owner may object to the sale. Trustee has no obligation to sell the Property unless, among other things, Trustee obtains an appropriate order from the Court which specifically authorizes the sale of the Property (notwithstanding the fact that the Property is not technically property of the Estate), and the Title Company, defined below, accepts the Court order to issue title insurance.

On September 15, 2022, an involuntary bankruptcy was filed against AB Capital, LLC (previously defined as "Debtor") by numerous petitioning creditors (the "Petitioning Creditors"), initiating bankruptcy case number 8:22-bk-11585-TA (previously defined as "Case").

On September 19, 2022, the Petitioning Creditors filed an emergency motion for appointment of an interim trustee pursuant to Bankruptcy Code Section 303(g) (the "Interim Trustee Motion").

On September 22, 2022, the Court held a hearing on the Interim Trustee Motion – during which the Court granted the Interim Trustee Motion as provided in the order entered on September 22, 2022 (the "Interim Trustee Order")

The Interim Trustee Order directed the Office of the United States Trustee to immediately appoint an interim chapter 7 trustee, required any appointed interim chapter 7 trustee to file a report with the Court detailing his or her preliminary findings and continued the hearing on the Interim Trustee Motion to October 4, 2022.

On September 23, 2022, Richard A. Marshack (previously defined as "Trustee") was appointed as the interim trustee of Debtor's bankruptcy estate.

On October 4, 2022, the Court held a continued hearing on the Motion for Appointment of Interim Trustee at which time the Court granted additional relief by expanding Trustee's powers to include all rights, powers, and duties of an interim trustee including those set forth in 11 U.S.C. § 303(g). During the hearing, the Court also, *sua sponte*, announced that it would enter an order for relief.

On October 6, 2022, the order for relief was entered. On October 6, 2022, the Court also entered an amended order granting the Motion for Appointment of Interim Trustee in its entirety and further providing that the Trustee shall have all the powers of a Chapter 7 Trustee including "to take possession of the property of the estate and to operate any business of the debtor."

On October 18, 2022, Trustee initiated an adversary action, entitled *Marshack v. Pukini*, Adversary Case No. 8:22-ap-01091-TA ("Adversary Proceeding") for: 1. BREACH OF FIDUCIARY DUTY 2. CONVERSION 3. MONEY HAD AND RECEIVED 4. UNJUST ENRICHMENT 5. TURNOVER OF PROPERTY TO THE ESTATE (11 U.S.C. § 542) 6.

TURNOVER OF PROPERTY BY A CUSTODIAN (11 U.S.C. § 543) 7. AVOIDANCE AND RECOVERY OF FRAUDULENT TRANSFER (11 U.S.C. § 548) 8. AVOIDANCE AND RECOVERY OF FRAUDULENT TRANSFER (Cal. Civil Code § 3439(a)(1)) 9. VIOLATION OF CAL. PENAL CODE § 496(a) against JOSHUA R. PUKINI, individually and as trustee of The Joshua R. Pukini Trust dated June 27, 2013; RYAN YOUNG, individually and as trustee of The Young Family Trust dated August 24, 2014, The Ryan J. Young Trust and The Young Ryan Trust; EDMUND VALASQUEZ, JR., an individual; 108 AVENIDA SERRA, LLC, a California limited liability company; 1034 W BALBOA, LLC, a California limited liability company; 31831 SUNSET LLC, a California limited liability company; AB CAPITAL FUND A, LLC, a California limited liability company; AB CAPITAL FUND B, LLC, a California limited liability company; AB CAPITAL HOLDINGS I, LLC, a California limited liability company; AB CAPITAL LFD, INC., a California corporation; ABC 2260 SAN YSIDRO LLC, a California limited liability company; BDP DEVELOPMENT PARTNERS, LLC, a California limited liability company; CALPAC DISTRESSED REAL ESTATE FUND I, LLC, a California limited liability company; CALPAC MANAGEMENT, INC., a California corporation; CALPAC MORTGAGE FUND, LLC, a California limited liability company; LIVING ART WORKS LLC, a California limited liability company; LUNA CONSTRUCTION MANAGEMENT, LLC, a California limited liability company; TABLEROCK ENTERPRISES, LLC, a California limited liability company ("Defendants").

On October 18, 2022, Trustee filed an emergency motion for temporary restraining order and preliminary injunction (the "Injunction Motion"), seeking, among other things, to enjoin Defendants from diverting, secreting, hiding, wasting, spending, appropriating, subverting or transferring assets derived from or related to Debtor in their possession, custody, or control.

On October 21, 2022, a hearing was held on the Injunction Motion, during which time Defendants stipulated to the issuance of a temporary restraining order ("TRO"). A TRO mutually agreeable to all parties was entered by the Court on October 24, 2022, and a continued hearing on the Injunction Motion was scheduled for December 1, 2022 to determine whether a preliminary injunction should be issued by the Court.

On November 30, 2022, and in an effort to avoid the uncertainty of litigation and to reduce costs and expenses of all parties to the adversary action, Trustee and Defendants stipulated to the issuance of a preliminary injunction (the "Stipulation"). On November 30, 2022, the Court entered the preliminary injunction (the "Preliminary Injunction") as per the parties' Stipulation. A copy of the Preliminary Injunction is attached as Exhibit "A."

Buyers have made an offer on the Property by way of the Agreement. Trustee is willing to accept the offer, subject to Bankruptcy Court approval and the terms of this Addendum and any counter offer.

Richard A. Marshack, Chapter 7 Trustee and/or his attorneys will seek a Court Order authorizing the sale of the Property.

Buyer understands that any sale of the Property is subject to certain terms and conditions imposed by the Bankruptcy Code and ancillary procedures, and any sale requires an Order of the Bankruptcy Court.

## AGREEMENT

- 1) Court Approval, Sale Motion, Overbid and Closing. All offers/sales are subject to Court confirmation and overbid. Trustee and/or his attorneys will file a motion authorizing the sale and conveyance of the Property to Buyer pursuant to the Agreement, which shall include overbid terms and procedures (the "Sale Motion"). The sale shall close, with Buyer

tendering the full Purchase Price (less the Deposit), the first business day that is not more than fifteen (15) calendar days after entry of an order of the Court confirming the sale (the "Sale Order"). Trustee has no obligation to sell the Property unless, among other things, Trustee obtains the Sale Order and the Title Company accepts the Sale Order to issue title insurance.

2) Buyer's Investigation and Property Information.

- a) Buyer is not relying on any statement or representation of the Seller, its agents or representatives, nor on any information supplied by the Seller, its agents or its representatives, except as expressly provided in this Addendum. Buyer is entering into the Agreement and is completing its purchase of the Property relying entirely on its own investigation of the Property. Buyer is aware (or will have chosen not to be aware) of all title matters; zoning regulations; other governmental requirements; site, environmental, and physical conditions of the site and any improvements at the Property; status of entitlements or ability to obtain entitlements for the Buyer's intended use; potential cost and procedures for completing and operating the Property; potential costs and procedures for developing the Property and/or constructing Buyer's intended improvements thereon; the past and potential future financial performance of the Property; structural, mechanical, or other physical conditions of the Property and any equipment, structure, roof, or utility services of the Property; status of permits or licenses for the Property; property lines and setbacks; easements and other matters affecting or potentially affecting title, termites or other pests; property taxes, bonds, or assessments relating to the Property; condition of leases or other contracts relating to the Property; income from the Property; the suitability of the Property for Buyer's intended use; the value of the Property, or any part thereof; the Association, if any effecting the Property; the CCR's and other title matters effecting the Property; ADA and accessibility issues; other matters effecting the use and condition of the Property; and any other contingency or matters whatsoever.
- b) Buyer acknowledges and agrees that (i) all documentation relating to the Property (the "Property Information") delivered or made available to Buyer and/or its representatives by the Seller and his respective agents and other representatives may have been prepared by third parties and may not be the work product of the Seller; (ii) the Seller has not made an independent investigation or verification of, nor has any knowledge of, the accuracy or completeness of the Property Information; (iii) the Property Information delivered or made available to Buyer and Buyer's representatives is furnished to each of them at the request, and for the convenience, of Buyer; (iv) Buyer is relying solely on its own investigations, examinations, and inspections of the Property and those of Buyer's representatives; and (v) the Seller expressly disclaims any representations or warranties with respect to the accuracy or completeness of the Property Information and Buyer releases the Seller and his respective agents, attorneys, including Marshack Hays LLP and Shulman Bastian Friedman & Bui LLP, and representatives, from any and all liability with respect thereto.
- 3) Waiver of Contingencies. The Agreement has no loan, appraisal or due diligence contingency. Buyer represents that it has had the opportunity prior to entering into the Agreement to do physical inspections, environmental review (including a phase 1 report) review of city and county documents and permits (Buyer's research), review of any lease, preliminary title report, NHD report and any other due diligence it deem necessary or advisable. Buyer, based solely on its own review and investigation, waives all contingencies.

- 4) Escrow and Title. Escrow shall be at A & A Escrow Services, Inc. ("Escrow"), Antonia Delgado and Title shall be at Lawyer's Title Insurance Company ("Title Company"), Kevin Sayles.

a) The contact information for Escrow is as follows:  
Antonia Delgado, Senior Escrow Officer  
A & A Escrow Services, Inc.  
15250 Ventura Blvd., Suite 715  
Sherman Oaks, CA 91403  
Phone (310) 550-6055 Ext 126

Fax (310) 550-6130  
Email: [antonia@aaescrow.com](mailto:antonia@aaescrow.com).

- b) The contact information for Title is as follows:

Kevin Sayles, Vice President  
Lawyers Title  
7530 N Glenoaks Blvd  
Burbank, CA 91504  
Phone (213) 364-3810  
Email: [kevinsayles@ltic.com](mailto:kevinsayles@ltic.com)

- 5) Property Sold "As is" "Where is".

- a) Buyer acknowledges that Seller is a Bankruptcy Trustee appointed by the United States Trustee, an officer of the Department of Justice, to represent a debtor's estate in a bankruptcy. Seller has not, and will not, inspect the Property or determine its condition, fitness or use for any particular purpose, nor will he provide any written disclosures, guarantees or warranties of any kind. Seller does not warrant or guarantee the accuracy of any financial statement, legal documents or governmental approvals (including, without limitations, leases, lease amendments, plans, entitlements, permits and certificates of occupancy) relating to the Property. Seller is exempt from complying with the requirements of Article 1.5 of the California Civil Code Sections 1102-1102.17 relating to disclosures upon transfer of residential real property, except Natural Hazards as provided below. Irrespective of any disclosure requirements, the sale shall be "as-is" and "where is" with no warranty or recourse whatsoever.

- b) Natural Hazard Disclosure Requirement Compliance. Buyer and Seller acknowledge that Seller is required to disclose if the Property lies within the following natural hazard areas or zones. Seller will employ the services of a company ("NHDS Provider"), and hereby instructs Escrow Holder to retain an NHDS Provider, to examine the maps and other information specifically made available to the public by government agencies for the purpose of enabling Seller to fulfill its disclosure obligations with respect to the natural hazards referred to in California Civil Code § 1102.6c(a) and to report the result of its examination, in writing, to Buyer and Seller using substantially the form of the "NATURAL HAZARD DISCLOSURE STATEMENT" set forth in California Civil Code § 1102.6c(b). The written report prepared by NHDS Provider regarding the results of its examination fully and completely discharges Seller from its disclosure obligations referred to herein, and, for the purpose of this Agreement, the provisions of Civil Code § 1102.4 regarding the non-liability of each Seller for errors or omissions not within in its

personal knowledge shall be deemed to apply and NHDS Provider shall be deemed to be

an expert, dealing with matters within the scope of its expertise with respect to the examination and written report regarding the natural hazards referred to above.

- c) BUYER DOES HEREBY ACKNOWLEDGE AND AGREE THAT BUYER IS PURCHASING THE PROPERTY IN AN "AS-IS, WHERE IS, WITH ALL FAULTS" CONDITION AS OF THE CLOSE OF ESCROW. IRRESPECTIVE OF ANY PROVISIONS IN THE AGREEMENT, SELLER IS NOT MAKING AND HAS MADE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE PROPERTY; AND PRIOR TO ENTERING INTO THE AGREEMENT, BUYER HAS UNDERTAKEN ALL SUCH INSPECTIONS AND EXAMINATIONS IN CONNECTION WITH THE PROPERTY AS BUYER DEEMS NECESSARY OR APPROPRIATE UNDER THE CIRCUMSTANCES (INCLUDING THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY, THE ZONING OF THE PROPERTY, THE PROPERTY'S COMPLIANCE WITH APPLICABLE LAWS (INCLUDING LOT LINES AND PERMITS), THE CONDITION OF ANY IMPROVEMENTS ON THE PROPERTY, AND THE AVAILABILITY OR LACK THEREOF OF ENTITLEMENTS, GOVERNMENTAL APPROVALS AND PERMITS FOR THE DEVELOPMENT, USE AND OCCUPANCY OF THE PROPERTY), AND THAT BASED UPON THE SAME, BUYER IS AND WILL BE RELYING STRICTLY AND SOLELY UPON SUCH INSPECTIONS AND EXAMINATIONS AND THE ADVICE OF ITS AGENTS, CONSULTANTS, CONTRACTORS, VENDORS AND REPRESENTATIVES. EXCEPT AS SET FORTH IN THIS ADDENDUM NEITHER SELLER NOR, ANY REPRESENTATIVE, MEMBER, AGENT, EMPLOYEE, INVESTOR, LENDER, PROPERTY MANAGER, BROKER, PRINCIPAL, PARTNER, AFFILIATE OR CONSULTANT OF SELLER IS MAKING OR HAS MADE ANY WARRANTY OR REPRESENTATION (EITHER EXPRESSED OR IMPLIED) WITH RESPECT TO ALL OR ANY PART OF THE PROPERTY AS AN INDUCEMENT TO BUYER TO ENTER INTO THE AGREEMENT AND THEREAFTER TO PURCHASE THE PROPERTY OR, FOR ANY OTHER PURPOSE. BUYER HEREBY EXPRESSLY DISCLAIMS (ON BEHALF OF ITSELF AND ANY PARTY AFFILIATED WITH OR RELATED TO BUYER) ANY AND ALL SELLER REPRESENTATIONS AND WARRANTIES (EITHER EXPRESSED OR IMPLIED), EXCEPT TO THE EXTENT EXPRESSLY PROVIDED FOR IN THIS ADDENDUM. BY REASON OF ALL OF THE FOREGOING, BUYER SHALL ASSUME THE FULL RISK OF ANY LOSS OR DAMAGE OCCASIONED BY ANY FACT, CIRCUMSTANCE, CONDITION, OR DEFECT IN CONNECTION WITH THE PROPERTY AND THE CONSUMMATION OF THE CLOSING SHALL CONCLUSIVELY EVIDENCE AND CONSTITUTE BUYER'S RELEASE OF SELLER AND SELLER'S PROFESSIONALS, (INCLUDING MARSHACK HAYS, LLP AND SHULMAN BASTIAN FRIEDMAN & BUI LLP, AGENTS AND BROKERS, INCLUDING BERKSHIRE HATHAWAY HOMESERVICES CA PROPERTIES) FROM ALL LOSS, DAMAGE AND LIABILITY FOR CLAIMS THAT MAY ARISE AFTER THE CLOSING WITH RESPECT TO ACTS OR OMISSIONS THAT OCCURRED, OR CONDITIONS THAT EXISTED, AT OR PRIOR TO THE CLOSING. WITHOUT LIMITING THE FOREGOING, BUYER SPECIFICALLY RELEASES SELLER AND SELLER'S PROFESSIONALS ("RELEASED PARTIES") FROM ANY CLAIMS BUYER MAY HAVE AGAINST RELEASED PARTIES NOW OR IN THE FUTURE ARISING FROM THE ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE PRESENCE OF HAZARDOUS SUBSTANCES OR CONTAMINATION ON OR EMANATING FROM THE PROPERTY. THE FOREGOING WAIVERS AND RELEASES BY BUYER SHALL SURVIVE EITHER

(I) THE CLOSING DATE AND SHALL NOT BE DEEMED MERGED INTO THE

PROVISIONS OF ANY DEED OR CLOSING DOCUMENTS, OR (II) ANY  
TERMINATION OF THIS AGREEMENT.

d) California Civil Code section 1542 provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR  
OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR  
HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF  
KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR  
HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Buyer acknowledges that it has read, is familiar with, and waives the provisions of California  
Civil Code section 1542 set forth above and agrees to all of the provisions of this Section.

CLW  
Initial

04/28/23

                      
Initial

- 6) No Repairs. If any state or local ordinance or laws require that the Property be brought into compliance or retrofitted, Buyer, at Buyer's sole expense, shall comply with and pay for any such requirements including for all necessary governmental repairs, corrections or additions. Seller will not provide a pest control report nor pay for any corrective work; nor shall Buyer receive any credit for corrective work.
- 7) Capacity. Seller is selling the Property and is signing any agreement, addenda, offers or counteroffers solely in his capacity as Trustee and under no circumstances will Seller or any of his professionals, including Marshack Hays, LLP and Shulman Bastian Friedman & Bui LLP, agents and brokers, including Berkshire Hathaway Homeservices CA Properties (collectively "Trustee's Professionals"), have any liability with regard to the Property, any agreement, offer, counteroffer, addendum, financial information related to the Property, plans, the sale of the Property, the physical condition of the Property, plans, permits (or the lack thereof) or any other matter.
- 8) Authority of Trustee. The Property is not technically property of the Bankruptcy Estate; however, Trustee is selling the Property pursuant to the Preliminary Injunction in the Adversary Proceeding. The sale of the Property is subject to, among other things, the final approval of the Court, and a title company accepting a Bankruptcy Court order to transfer title to the Property.
- 9) Transfer of Property. Transfer of the Property by Seller shall be by Bankruptcy Trustee's Deed or Quitclaim Deed at Trustee's option. Seller shall convey and Buyer shall accept the marketable title to the Property that will be insured by the Title Company, without material exception, subject only to the terms herein, any further documentation of the sale and any additional terms of Trustee in any offer/counteroffer, agreement or addenda. In the event that Trustee cannot transfer title, Seller shall have the right to terminate as provided in the "Right to Terminate" section below.
- 10) Liens, Claims, Encumbrances and Interests. The sale shall be free and clear of monetary liens, except property taxes not yet due.
- 11) Assessments, Taxes and Escrow fees. The following assessments, taxes and other costs shall be allocated as follows: (a) all allowable assessments and real property taxes shall be prorated through the closing date of the sale to the applicable accounts of Seller and Buyer, such that the amounts applicable to the account of Buyer shall not be deducted from the Purchase

Price; (b) escrow fees shall be paid 50% by Buyer and 50% by Seller, such that the amount applicable to the account of Buyer shall not be deducted from the Purchase Price; (c) Seller shall pay real property transfer tax (County and City only) and the costs of a standard issue title insurance policy; and (d) the Buyer shall pay for the required natural Hazard disclosure report (NHD) such that the amount applicable to the account of Buyer shall not be deducted from the Purchase Price. All other costs are at Buyer's sole expense and are not to be deducted from the Purchase Price.

- 12) Appliances and Personal Property. No appliances or personal property are included with the sale.
- 13) Brokers and Commissions. Subject to Court approval, Seller shall pay a real estate broker commission through escrow pursuant to the terms of the Listing Agreement unless otherwise agreed in writing by all agents or ordered by the Court. No commission shall be due and payable except from the cash proceeds of an actual sale of the Property to Buyer and upon closing of such sale after Court approval of such sale and the commission. Except as provided for in the Agreement, Buyer represents that no broker, salesman or finder has been engaged by it in connection with any of the transactions contemplated by the Agreement or, to their knowledge, is in any way connected with any of such transactions. In the event of any claim for broker's, consultant's or finder's fees or commissions in connection with the negotiation, execution or consummation of this Agreement, Buyer shall indemnify, hold harmless and defend Seller from and against such claim if it shall be based upon any statement, representation or agreement made by Buyer.
- 14) Seller Right to Terminate. Seller may decline, at his option and sole discretion, to consummate the sale for any reason, including without limitation (a) the dismissal of the Case; (b) the inability to obtain approval of the sale by the Court; (c) liens, claims or co-owners, or other encumbrances against the Property, if any, make the sale infeasible or unprofitable to the Estate; or (d) the inability to sell the Property on the terms and conditions set forth herein. Seller reserves the right, in his sole discretion, to determine not to consummate, and to terminate, the sale of the Property by serving a notice of such termination on any Buyer. No liability or obligations shall accrue to Seller, Richard A. Marshack as Trustee or in his individual capacity, the Estate, Owner, Debtor, any Debtor insider or affiliate entities (as defined in the Preliminary Injunction), or Trustee's Professionals on any such termination. Buyer's sole remedy, in the event that escrow fails to close as a result of Seller's termination and failure to close escrow, shall be a refund of the Deposit in full.
- 15) Title Insurance. The title insurance policy shall be subject only to liens, encumbrances, clouds and other matters as may appear on the preliminary title report, that are not to be removed at the close of Escrow, and have not been objected to by Buyer. Should Seller be unwilling or unable to eliminate those title matters disapproved by Buyer as above, or should title be unwilling to accept the Preliminary Injunction or a Bankruptcy Court Order to transfer title, the Seller may terminate this Agreement or; should Seller fail to deliver goods and marketable title as provided above, Seller or Buyer may terminate this Agreement. In either case, the Buyer's deposit shall be returned to Buyer, and Buyer shall have no recourse against Seller, Richard A. Marshack as Trustee or in his individual capacity, the Estate, Owner, Debtor, any Debtor insider or affiliate entities (as defined in the Preliminary Injunction), or Trustee's Professionals.
- 16) Hold Harmless. Buyer understands the terms and conditions of the Agreement and this Addendum, and holds the Seller, Richard A. Marshack as Trustee or in his individual capacity, the Estate, Owner, Debtor, any Debtor any insider or affiliate entities (as defined in

the Preliminary Injunction), and Trustee's Professionals harmless from any liabilities arising from the Agreement, this Addendum, the sale of the Property or any other matter.

- 17) Non-Refundability and Forfeiture of Deposit. Except as otherwise provided in any agreement, the entirety of the Deposit shall be absolutely non-refundable and forfeited to Seller. Notwithstanding the immediately preceding sentence, in the event: (a) the Court enters an order that does not authorize Seller to sell the Property to Buyer; or (b) the Court enters an order that authorizes the sale to another bidder and Buyer is not a backup bidder, Seller shall refund the entire Deposit to Buyer within ten (10) calendar days following entry of such order of Court. In the event Buyer is overbid and is a backup bidder, Seller shall refund the entire Deposit to Buyer only if the sale closes to the winning bidder and within ten (10) calendar days following such closing.
- 18) Escrow Instructions. Escrow instructions shall be signed by Buyer and Seller within three (3) calendar days after execution of the final agreement/counteroffer. In the event that Buyer is unable to close escrow on the first business day that is at not more than fifteen (15) calendar days after entry of the Sale Order (the "Closing Date"), Buyer shall compensate Seller One Thousand dollars (\$1,000.00) per day for each day beyond the Closing Date that the sale does not close for a total extended period of no more than ten (10) calendar days. Thereafter, Seller shall have absolute discretion to either: (a) provide further extensions of the Closing Date at the same rate of compensation; or (b) terminate the sale to Buyer and retain the entirety of the Deposit as liquidated damages.
- 19) Dispute Jurisdiction. Irrespective of any term in the Agreement, or any other document, any terms related to "Dispute Resolution, Mediation and/or Arbitration" are deleted in their entirety and shall be replaced with: Any dispute is subject to the exclusive jurisdiction and venue of the Bankruptcy Court where the Case is pending. Any offers or agreements shall be construed pursuant to the laws of the State of California as applied by the Bankruptcy Court.
- 20) Conflicts. To the extent that the agreement or any other document conflicts with this Addendum, this Addendum shall control, and the conflicting provisions of the Agreement or any other document are superseded.
- 21) Multiple Offers (if applicable). Buyer recognizes that multiple offers and/or counteroffers (in addition to the instant offer/counter offer) may be pending and Seller reserves the right to choose which contract to execute and submit to the Court for approval.
- 22) Not Assignable. The Agreement is not assignable; however, in the event of any assignment (whether authorized or unauthorized), this Agreement shall be binding upon and inure to the benefit of the successors and assigns of Seller and Buyer.
- 23) Trustee's Authority. The Owner is a related entity to Debtor. The Property is not technically property of the Bankruptcy Estate; however, Trustee is selling the Property pursuant the Preliminary Injunction. The Owner may object to the sale. Trustee has no obligation to sell the Property unless, among other things, Trustee obtains an appropriate order from the Court which specifically authorizes the sale of the Property (notwithstanding the fact that the Property is not technically property of the Estate), and the Title Company accepts the Court order to issue title insurance.



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24) Permits. Seller believes that Owner may have made improvements to the Property without proper permitting. Seller also believes that all inspections by the relevant government agency may not have been done. Buyer shall make its own investigation into these issues, as well as all other matters effecting the Property.

Dated: April 22, 2023

**BUYER**

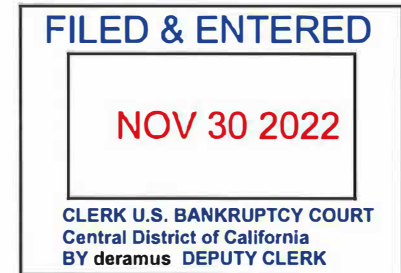
  04/28/23  
\_\_\_\_\_  
Christopher A. Witham

Dated: April \_\_, 2023

**TRUSTEE**

\_\_\_\_\_  
Richard A. Marshack  
Chapter 7 Trustee

James C. Bastian, Jr. - Bar No. 175415  
Ryan D. O'Dea - Bar No. 273478  
Eric P. Francisconi - Bar No. 172102  
Shane M. Biornstad - Bar No. 250202  
**SHULMAN BASTIAN FRIEDMAN & BUI LLP**  
100 Spectrum Center Drive, Suite 600  
Irvine, CA 92618  
Telephone: (949) 340-3400  
Facsimile: (949) 340-3000  
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ROdea@shulmanbastian.com  
EFrancisconi@shulmanbastian.com  
SBiornstad@shulmanbastian.com



Proposed Special Litigation Counsel for  
Richard A. Marshack, Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION**

In re

**AB CAPITAL, LLC., a California limited  
liability company,**

Debtor.

Case No.: 8:22-bk-11585-TA

Chapter 7 (Involuntary)

Adv. Case No. 8:22-ap-01091-TA

**PRELIMINARY INJUNCTION**

**RICHARD A. MARSHACK, Chapter 7  
Trustee,**

Plaintiff,

vs.

**JOSHUA R. PUKINI, individually and as  
trustee of The Joshua R. Pukini Trust dated  
June 27, 2013; RYAN YOUNG, individually  
and as trustee of The Young Family Trust  
dated August 24, 2014, The Ryan J. Young  
Trust and The Young Ryan Trust; EDMUND  
VALASQUEZ, JR., an individual; 108  
AVENIDA SERRA, LLC, a California  
limited liability company; 1034 W BALBOA,  
LLC, a California limited liability company;  
31831 SUNSET LLC, a California limited  
liability company; AB CAPITAL FUND A,  
LLC, a California limited liability company;  
AB CAPITAL FUND B, LLC, a California  
limited liability company; AB CAPITAL  
HOLDINGS I, LLC, a California limited  
liability company; AB CAPITAL LFD, INC.,  
a California corporation; ABC 2260 SAN**

YSIDRO LLC, a California limited liability company; BDP DEVELOPMENT PARTNERS, LLC, a California limited liability company; CAL-PAC DISTRESSED REAL ESTATE FUND I, LLC, a California limited liability company; CALPAC MANAGEMENT, INC., a California corporation; CALPAC MORTGAGE FUND, LLC, a California limited liability company; LIVING ART WORKS LLC, a California limited liability company; LUNA CONSTRUCTION MANAGEMENT, LLC, a California limited liability company; TABLEROCK ENTERPRISES, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

1 On October 21, 2022, a hearing (the "Hearing") was held on the motion (the "Motion") of  
2 Richard A. Marshack, as Chapter 7 Trustee of the bankruptcy estate of AB Capital, LLC ("Trustee"),  
3 for issuance of a temporary restraining order ("TRO") and preliminary injunction ("Preliminary  
4 Injunction"), seeking, among other things, to enjoin Joshua R. Pukini, individually and as trustee of  
5 The Joshua R. Pukini Trust dated 6/27/2013; Ryan Young, individually and as trustee of The Young  
6 Family Trust dated 8/24/2014, the Ryan J. Young Trust, and the Young Ryan Trust; Edmund  
7 Valasquez, Jr.; 108 Avenida Serra, LLC; 1034 W Balboa, LLC; 31831 Sunset LLC; AB Capital  
8 Fund A, LLC; AB Capital Fund B, LLC; AB Capital Holdings I, LLC; AB Capital LFD, Inc.; ABC  
9 2260 San Ysidro LLC; BDP Development Partners, LLC; Cal-Pac Distressed Real Estate Fund I,  
10 LLC; Calpac Management, Inc.; CalPac Mortgage Fund, LLC; Living Art Works LLC; Luna  
11 Construction Management, LLC; and Tablerock Enterprises, LLC ("Defendants") from diverting,  
12 secreting, hiding, wasting, spending, appropriating, subverting or transferring assets derived from  
13 or related to debtor AB Capital, LLC ("Debtor") in their possession, custody, or control, the  
14 Honorable Theodor C. Albert presiding. On October 24, 2022, the Court entered the TRO, reflected  
15 as Docket Number 21 in the above-captioned adversary action, which was stipulated and agreed to  
16 by defendants Josh Pukini and Ryan Young.

17 Having considered the Motion, all evidence submitted by Trustee, the parties' oral argument  
18 at the Hearing, Josh Pukini's and Ryan Young's stipulation for entry of the TRO and their stipulation  
19 to the terms of this Preliminary Injunction, and good cause appearing,

20 It is hereby **ORDERED**:

21 1. The Motion seeking a Preliminary Injunction is granted, as modified and provided  
22 herein.

23 2. Subject to Paragraphs 4 through 7 below, Defendants, and any entity, affiliate, or  
24 subsidiary owned or controlled in whole or in part by Defendants (collectively, the "Enjoined  
25 Parties") are enjoined from selling, encumbering, transferring, diverting, secreting, hiding, wasting,  
26 spending, appropriating, collecting, compromising (including collecting amounts due under any  
27 notes or other instruments or entering into any settlement or compromise) or subverting any asset,

1 including bank or brokerage accounts, of any kind owned or controlled, in whole or in part, by any  
2 of the Enjoined Parties (the “Enjoined Property”) from November 30, 2022 through May 1, 2023  
3 (the “Injunction Period”) without the express written consent of the Trustee or further order of the  
4 court.

5 3. The Enjoined Property includes, but is not limited to the following:

6 (i) Any and all personal property, real property or interests in real property, held or owned,  
7 directly or indirectly by or for the benefit of Debtor, including but not limited to the following: 8018  
8 La Milla, Rancho Santa Fe, CA 92067; 1314 Sunset Plaza Drive, Los Angeles, CA 90069; 322  
9 Broadway, Oakland, CA 94607; and 444 Museum Drive, Los Angeles, CA 90066 (the “Debtor’s  
10 Real Property”);

11 (ii) Any and all liens, notes, deeds of trust, assignments or security interests related to or  
12 securing repayment of any loan, note, or any other obligation of any kind (collectively “Liens”),  
13 held directly or indirectly by or for the benefit of Debtor including but not limited to Liens related  
14 to the following real property: 2260 San Ysidro Drive, Los Angeles, CA 90210 (2nd DOT); 437 E.  
15 5th Street, Long Beach, CA 90802 (1st DOT); 1611 Cliff Drive, Newport Beach, CA 92663 (2nd  
16 DOT); 1312 Beverly Grove Place, Beverly Hills, CA 90210 (2nd DOT); 7 Makena Lane, Rancho  
17 Mirage, CA 92270 (2nd DOT); and 8018 La Milla, Rancho Santa Fe, CA 92067 (1st DOT) (the  
18 “Debtor’s Lien Interests”);

19 (iii) Any and all personal property, real property, or interests in real property, held, directly  
20 or indirectly, in the name or for the benefit of Debtor’s affiliates or insiders including but not limited  
21 to the following: 1034 W. Balboa Boulevard, Newport Beach, CA 92661; 108 Avenida Serra, San  
22 Clemente, CA 92672; 31831 Sunset Avenue, Laguna Beach, CA 92651; 1 Makena Lane, Rancho  
23 Mirage, CA 92270; 2 Makena Lane, Rancho Mirage, CA 92270; 4 Makena Lane, Rancho Mirage,  
24 CA 92270; 5 Makena Lane, Rancho Mirage, CA 92270; 7 Makena Lane, Rancho Mirage, CA  
25 92270; 2260 San Ysidro Drive, Los Angeles, CA 90210; 3301 Coldwater Canyon Avenue, Studio  
26 City, CA 91604; 530 Alta Vista Way, Laguna Beach, CA 92651; 1312 Beverly Grove Place, Beverly  
27 Hills, CA 90210; 501 S. Olive Street, Anaheim, CA 92805; 109 Rivo Alto Canal, Long Beach, CA

1 90803; 170 N. Circulo Robel, Anaheim, CA 92807; 20620 Manzanita Avenue, Yorba Linda, CA  
2 92886; 5578 Avenida Adobe, Yorba Linda, CA 92886; 5632 Campo Walk, Long Beach, CA 90803;  
3 7890 East Berner Street, Long Beach, CA 90808; and 38861 Elmwood Drive, Rancho Mirage, CA  
4 92270; 2826-041-022, Los Angeles County, CA; 112 22nd Street, Newport Beach, CA 92663; and  
5 7900 E. Cramer Street, Long Beach, CA 90808 (the "Affiliate or Insider Real Property Interests").

6 (iv) Any and all liens, notes, deeds of trust, assignments or security interests related to or  
7 securing repayment of any loan, note, or any other obligation of any kind (collectively "Liens") held  
8 directly or indirectly by or for the benefit of any affiliate or insider of the Debtor, including but not  
9 limited to Liens related to the following real property: 437 E. 5th Street, Long Beach, CA 90802;  
10 and 7 Makena Lane, Rancho Mirage, CA 92270 (the "Affiliate or Insider Lien Interests");

11 (v) Any and all ownership interest, including stock, partnership or membership interests,  
12 held directly or indirectly by or for the benefit of the Debtor in any entity ("Debtor's Ownership  
13 Interests");

14 (vi) Any and all ownership interest, including stock, partnership or membership interests,  
15 held directly or indirectly by or for the benefit of any affiliate or insider of the Debtor ("Affiliate or  
16 Insider Ownership Interests");

17 (vi) Debtor's hardcopy and electronic books and records, including those removed from  
18 Debtor's corporate office ("Debtor's Records");

19 (vii) Hardcopy and electronic books and records of any affiliate or insider ("Affiliate or  
20 Insider Records");

21 (viii) Original notes, construction loan related documents and other documents or  
22 instruments evidencing or related to any right to payment in favor of Debtor ("Debtor Notes and  
23 Other Instruments") or any of Debtor's insiders or affiliates ("Insider Notes and Other  
24 Instruments");

25 (ix) Any and all claims, causes of action or rights to proceed with legal or equitable action  
26 or process held by or for the benefit of the Debtor ("Debtor Claims");

(x) Any and all claims, causes of action or rights to proceed with legal or equitable action or process held by or for the benefit of any affiliate or insider of the Debtor, including those identified on **Exhibit A** affixed to this Preliminary Injunction ("Affiliate or Insider Claims"); and

(xi) Construction documents, contracts, bids, keys, access codes, plans, permits, entitlements, governmental approvals, certificates of occupancy, licenses, or other form of authorization or approval issued by a government agency or authority and legally required for the construction ownership, operation, and use of the Enjoined Property ("Construction Documents"),

4. Subject to a monthly budget provided to the Trustee, defendant Ryan Young shall be permitted to utilize up to \$35,000.00 (the "Young Monthly Budget"), derived from of his personal funds and/or derived from defendant Tablerock Enterprises, LLC ("Tablerock"), for his ordinary and reasonable costs of living and legal expenses during the Injunction Period. As a condition precedent to being entitled to the Young Monthly Budget, defendant Ryan Young must prepare and provide to the Trustee, a report (the "Young Report") identifying the anticipated source(s) of funds comprising the Young Monthly Budget. If defendant Ryan Young or his wife receive funds in a given month from sources not identified in the Young Report, defendant Ryan Young shall disclose to the Trustee the source of any such funds that he or his wife receive within fourteen (14) days of receipt; absent objection from the Trustee, such funds shall not be subject to this Preliminary Injunction (the "Non-Enjoined Funds"). To the extent there is a disagreement between the Trustee and defendant Ryan Young over whether funds constitute Non-Enjoined Funds, defendant Ryan Young may present such dispute to the Court on 72 hours' notice, if necessary. To the extent defendant Ryan Young requires funds in addition to the Young Monthly Budget for the purpose of paying state and/or federal taxes, Mr. Young may request a temporary increase of the Young Monthly Budget solely to satisfy his tax liability (the "Young Temporary Increase"). As a condition precedent to being entitled to the Young Temporary Increase: (1) defendant Ryan Young shall provide the Trustee with appropriate documentation supporting the tax liability necessitating the Young Temporary Increase; and (2) the Trustee must approve, in writing, the Young Temporary Increase – approval which shall not unreasonably be withheld.

1           5.       The Trustee has agreed that this Preliminary Injunction shall not apply to Ryan  
2 Young's personal residence at 31522 Bluff Drive, Laguna Beach, CA 92651 (the "Young  
3 Residence") or any proceeds derived from the Young Residence during the Injunction Period  
4 conditioned upon Mr. Young's agreement to not sell, transfer, or encumber the Young Residence  
5 during the Injunction Period; without prejudice to the Trustee seeking to include the Young  
6 Residence as part of the Enjoined Property.

7           6.       Subject to a monthly budget provided to the Trustee, defendant Josh Pukini shall be  
8 permitted to utilize up to \$35,000.00 (the "Pukini Monthly Budget"), derived from of his personal  
9 funds for his ordinary and reasonable costs of living and legal expenses during the Injunction Period.  
10 As a condition precedent to being entitled to the Pukini Monthly Budget, defendant Josh Pukini  
11 must prepare and provide to the Trustee, a report (the "Pukini Report") identifying the anticipated  
12 source(s) of funds comprising the Pukini Monthly Budget. If defendant Josh Pukini receives funds  
13 in a given month from sources not identified in the Pukini Report, defendant Josh Pukini shall  
14 disclose to the Trustee the source of any such funds that he receives within fourteen (14) days of  
15 receipt; absent objection from the Trustee, such funds shall not be subject to this Preliminary  
16 Injunction (the "Non-Enjoined Funds"). To the extent there is a disagreement between the Trustee  
17 and defendant Josh Pukini over whether funds constitute Non-Enjoined Funds, defendant Josh  
18 Pukini may present such dispute to the Court on 72 hours' notice, if necessary. To the extent  
19 defendant Josh Pukini requires funds in addition to the Pukini Monthly Budget for the purpose of  
20 paying state and/or federal taxes, Mr. Pukini may request a temporary increase of the Pukini  
21 Monthly Budget solely to satisfy his tax liability (the "Pukini Temporary Increase"). As a condition  
22 precedent to being entitled to the Pukini Temporary Increase: (1) defendant Josh Pukini shall  
23 provide the Trustee with appropriate documentation supporting the tax liability necessitating the  
24 Pukini Temporary Increase; and (2) the Trustee must approve, in writing, the Pukini Temporary  
25 Increase – approval which shall not unreasonably be withheld.

26           7.       Subject to a monthly budget provided to the Trustee, defendant Edmund Valasquez,  
27 Jr. shall be permitted to utilize up to \$25,000.00 (the "Valasquez Monthly Budget" and, together

1 with the Young Monthly Budget and the Valasquez Monthly Budget, the “Monthly Budgets”),  
2 derived from of his personal funds for his ordinary and reasonable costs of living and legal expenses  
3 during the Injunction Period. As a condition precedent to being entitled to the Valasquez Monthly  
4 Budget, defendant Edmund Valasquez must prepare and provide to the Trustee, a report the  
5 “Valasquez Report”) identifying the anticipated source(s) of funds comprising the Valasquez  
6 Monthly Budget. If defendant Edmund Valasquez receives funds in a given month from sources  
7 not identified in the Valasquez Report, defendant Edmund Valasquez shall disclose to the Trustee  
8 the source of any such funds that he receives within fourteen (14) days of receipt; absent objection  
9 from the Trustee, such funds shall not be subject to this Preliminary Injunction (the “Non-Enjoined  
10 Funds”). To the extent there is a disagreement between the Trustee and defendant Edmund  
11 Valasquez over whether funds constitute Non-Enjoined Funds, defendant Edmond Valasquez may  
12 present such dispute to the Court on 72 hours’ notice, if necessary To the extent defendant Edmund  
13 Valasquez requires funds in addition to the Valasquez Monthly Budget for the purpose of paying  
14 state and/or federal taxes, Mr. Valasquez may request a temporary increase of the Valasquez  
15 Monthly Budget solely to satisfy his tax liability (the “Valasquez Temporary Increase”). As a  
16 condition precedent to being entitled to the Valasquez Temporary Increase: (1) defendant Edmund  
17 Valasquez shall provide the Trustee with appropriate documentation supporting the tax liability  
18 necessitating the Valasquez Temporary Increase; and (2) the Trustee must approve, in writing, the  
19 Valasquez Temporary Increase – approval which shall not unreasonably be withheld.

20 8. All deadlines to answer or respond to the complaint in this adversary action are  
21 stayed during the Injunction Period. The Court may schedule and hold periodic status conferences  
22 in the adversary action, but will not issue a scheduling order during the Injunction Period.

23 9. Subject to the terms and conditions set forth in paragraphs 11 through 15 below,  
24 Defendants shall cooperate with, report to and take advice and direction from the Trustee and his  
25 agents, counsel and representatives as necessary in the Trustee’s discretion in: (a) marketing, selling  
26 and managing the Enjoined Property; (b) collecting on notes constituting the Enjoined Property; (c)  
27 pursuing foreclosure remedies associated with the Enjoined Property; and (d) taking any other

actions that are reasonably necessary to monetize the Enjoined Property for the benefit of the estate and creditors (all of which shall be referred to herein as the “Cooperation Activities”).

10. Subject to the terms of that certain Stipulated Protective Order affixed hereto as **Exhibit B**,<sup>1</sup> Defendants are required to turn over all documents and information to the Trustee as necessary for the Trustee to administer Debtor’s estate or that which is necessary to the marketing, sale, collection or taking any other activities necessary to preserve or realize value from the Enjoined Property – including but not limited to turnover of copies of all bank statements for any bank account held or controlled by Defendants for the last two (2) years, access<sup>2</sup> to any and all bank accounts held or controlled by Defendants, Notes and Other Instruments (including any copies of same), Debtor Records, Construction Documents, Affiliate or Insider Records and turnover of any and all documents related to and necessary or convenient to determine the value and disposition of any Enjoined Property, including any document referenced in or related to the Enjoined Property described in Paragraph 3 above. To the extent, after Defendants’ good faith efforts, Defendants are not able to provide the Trustee with electronic access to any bank account(s) held or controlled by Defendants, , no later than the 10<sup>th</sup> day of each month, Defendants shall provide the Trustee with account statements for any and all bank accounts held or controlled by Defendants (where electronic access has not been provided to the Trustee). To the extent the ending balance for any account has changed from the prior month’s ending balance, other than the accounts from which the Monthly Budgets are funded, Defendants shall provide the Trustee with all information necessary for the Trustee to determine the basis for the change, which may include a copy of the full prior month’s bank statement. To the extent the accounts from which the Monthly Budgets are funded have decreased by an amount more than the allowed Monthly Budgets, Defendants shall, upon the

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<sup>1</sup> The Stipulated Protective Order will be separately filed and lodged with the Court for approval.

<sup>2</sup> “Access” does not mean, and shall not be interpreted to mean or include, the Trustee’s ownership or control over any bank account held or controlled by Defendants. For the sake of clarity, “access” for purposes of Paragraph 10 of this Preliminary Injunction shall mean electronic or hardcopy access to any and all bank records and banking activity associated with bank accounts owned or controlled by Defendants.

Trustee's request, immediately provide the Trustee with all information necessary to evaluate and determine the use of such proceeds.

11. Defendants shall be enjoined from interfering<sup>3</sup> with, or taking steps of any kind to impair, the Trustee's ability: (a) to market and sell the Debtor Real Property; (b) to collect payments due and owing under any Debtor Notes or Other Instruments; (c) to collect payments due and owing under any Insider Notes or Other Instruments, subject to any such payments being held in a segregated account by the Trustee subject to any claims, rights, or defenses asserted by Defendants, including but not limited to the right of Defendants to seek to use a portion of such payments to fund, in part, the Monthly Budgets; (d) enforcing the Debtor's Lien Interests; (e) enforcing the Affiliate or Insider Lien Interests, subject to any Net Proceeds from such enforcement activity being held in a segregated account by the Trustee subject to any claims, rights, or defenses asserted by Defendants; or (f) realize value for or on account of any Enjoined Property. To the extent there is any dispute over the Trustee's proposed action under this paragraph, any appropriate Defendant(s) may present such dispute to the Court on 72 hours' notice, if necessary.

12. In the Trustee's discretion and business judgment, the Trustee is expressly permitted to actively market for sale the Affiliate or Insider Real Property, and take all steps necessary and convenient to market and consummate the sale of any Affiliate or Insider Real Property, including execution of documents; provided, however that the Trustee's sale of any Affiliate or Insider Real Property is expressly conditioned upon such sale being the subject of a noticed motion and resulting Court order.

13. In the Trustee's discretion and business judgment, the Trustee: (a) is expressly permitted to collect payments due and owing under the Debtor Notes and Other Instruments; (b) is expressly permitted to collect payments due and owing under Insider Notes and Other Instruments and/or taking all steps necessary to enforce the Affiliate or Insider Lien Interests, subject to any such

<sup>3</sup> For purposes of this Preliminary Injunction: "Interfering" shall not mean, and shall not be interpreted to mean or include, Defendants seeking bankruptcy court relief to resolve any dispute regarding any term or provision of this Preliminary Injunction. Similarly, "interfering" shall not mean or include Defendants' opposition to any motion filed by the Trustee regarding a dispute over any term or provision of this Preliminary Injunction.

1 payments being held in a segregated account by the Trustee subject to any claims, rights, or defenses  
2 asserted by Defendants; (c) to exercise foreclosure rights related to the Affiliate or Insider Lien  
3 Interests; and (d) compromise or settle any Affiliate or Insider Claims without further order of the  
4 Court so long as the Trustee provides Defendants with a minimum of fourteen (14) days' notice of  
5 his intention to do so; provided however that the Trustee may seek Court approval of these actions  
6 as he deems necessary or appropriate in his discretion. To the extent there is any dispute over the  
7 Trustee's proposed action under this paragraph, any appropriate Defendant(s) may present the  
8 dispute to the Court on 72 hours' notice, if necessary.

9       14. In the Trustee's discretion and business judgment, the Trustee is expressly permitted  
10 to take all steps necessary to monetize or realize value on account of Affiliate or Insider Ownership  
11 Interests. The Trustee's entry into a transaction to sell, monetize or realize value for Affiliate or  
12 Insider Ownership Interests is expressly conditioned upon such a sale being the subject of a noticed  
13 motion and resulting Court order.

14       15. Defendants shall be enjoined from interfering with, or taking steps of any kind to  
15 impair, the Trustee's ability: (a) to market for sale the Affiliate or Insider Real Property; (b) to  
16 collect payments due and owing under Notes or Other Instruments constituting or other obligations  
17 which are secured by Affiliate or Insider Lien Interests; (c) to exercise foreclosure or other  
18 enforcement rights related to the Affiliate or Insider Lien Interests; (d) monetize or realize value on  
19 account of Affiliate or Insider Ownership Interests; or (e) compromise or settle any Affiliate or  
20 Insider Claims. To the extent there is any dispute over the Trustee's proposed action under this  
21 paragraph, any appropriate Defendant(s) may present such dispute to the Court on 72 hours' notice,  
22 if necessary.

23       16. For the avoidance of doubt, the Trustee shall have final authority regarding the sale  
24 or other disposition of any of the Enjoined Property, and approval of any sale or disposition of the  
25 Enjoined Property must be expressly approved by the Trustee in writing prior to closing or  
26 consummating such a transaction, or otherwise authorized by Court order.

17. Any and all net proceeds resulting from sale, enforcement or other disposition of any Affiliate or Insider Real Property, Affiliate or Insider Lien Interests, Affiliate or Insider Claims or Affiliate or Insider Ownership Interests after payment of reasonable and ordinary closing costs, including reasonable brokerage commissions and valid encumbrances or in the case of Affiliate or Insider Claims, payment of reasonable attorneys' fees and costs incurred in relation thereto (but not including any administrative fees or costs of the Trustee or his professionals, which may only be paid upon entry of a final order of the bankruptcy court approving same), approved by the Trustee in his sole discretion (the "Net Proceeds"), shall be held in a segregated account by the Trustee subject to any claims, rights, or defenses asserted by Defendants.

18. In the Trustee's discretion and business judgment, and absent an agreement from the appropriate Defendant(s), the Parties recognize that the Trustee may apply to the court for permission to spend any cash constituting net sale proceeds from 108 Avenida Serra, San Clemente, California, any Net Proceeds, and any funds held in Defendants' bank accounts as reasonably necessary to cover the cost of insurance, repairs, or other items necessary to preserve the value of the Enjoined Property. To the extent such request cannot be made by way of stipulated agreement, the Trustee may file a motion seeking approval of such request with 72 hours' notice.

19. Should any term of this Preliminary Injunction be breached by any party, including but not limited breach of the Cooperation Activities, any non-breaching party may submit a declaration to the Court attesting to the breach and lodge an order with the Court seeking hearing on seventy-two (72) business hours' notice, subject to the availability of the Court.

20. This Preliminary Injunction is without prejudice to any claim or defense of the Trustee or Defendants. All rights of all parties are expressly reserved, including the right of the Trustee to seek an extension of the Injunction Period, expansion of the scope of this Preliminary Injunction or the issuance of a permanent injunction, and the rights of Defendants to challenge the scope of this Preliminary Injunction, the expansion of the scope of this Preliminary Injunction, or the issuance of a permanent injunction. In the event the Trustee files a motion to extend the Injunction Period or to expand the scope of this Preliminary Injunction, Defendants may oppose

1 such a motion. Nothing in this Preliminary Injunction shall constitute or be treated as a waiver of  
2 any argument, claim, or defense of Defendants in opposition to a motion to extend the Injunction  
3 Period or expand the scope of this Preliminary Injunction.. Should the Trustee file a motion to  
4 extend the Injunction Period or to expand the scope of this Preliminary Injunction, or in the event  
5 any Defendant files a motion seeking to modify or vacate all or portions of the Preliminary  
6 Injunction ("Motion to Modify or Vacate"), the burden of establishing the applicable elements  
7 necessary for preliminary injunctive relief shall be on the Trustee. However, in the event any  
8 Defendant intends to file a Motion to Modify or Vacate, such Defendant shall: (1) no less than seven  
9 (7) days prior to filing a Motion to Modify or Vacate, prepare and provide to the Trustee a written  
10 statement detailing the basis and grounds for the prospective motion; and (2) no less than three (3)  
11 days prior to filing a Motion to Modify or Vacate, meet and confer with the Trustee (telephonically,  
12 virtually, or physically) in good faith to resolve the dispute(s) underlying the prospective motion.  
13 Should the parties' meet and confer efforts fail to resolve the dispute(s) and a Motion to Modify or  
14 Vacate be filed with the Court, Defendants and the Trustee agree to an expediated discovery  
15 schedule and the deadline for filing any opposition to the Motion to Modify or Vacate shall not be  
16 less than fourteen (14) days after the later of: (a) receipt of all Defendants' discovery responses; (b)  
17 receipt of all Defendants' production of documents; or (c) conclusion of any deposition noticed or  
18 subpoenaed by the Trustee.<sup>4</sup>

19 21. This Preliminary Injunction may be served on third-parties, including banks and  
20 escrow companies in contract with any of the Enjoined Parties, or in possession of any Enjoined  
21 Property, and that such third-parties are directed and authorized to interact exclusively with and take  
22 instruction from the Trustee or his authorized representatives in connection with any Enjoined Party  
23 or Enjoined Property as necessary to allow the Trustee and Defendants to comply with the terms of  
24 this Preliminary Injunction.

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26  
27 <sup>4</sup> In the event the Trustee does not propound discovery upon Defendants or any third-party, the  
28 deadline to oppose any Motion to Modify or Vacate shall not be less than twenty-one (21) days from  
the date such Motion to Modify or Vacate was filed with the Court.


1 22. The Trustee is not required to post a bond under Fed. R. Civ. Proc. 65 or Fed. R.  
2 Bankr. Proc. 7065.

3 23. A status conference regarding the Preliminary Injunction is scheduled for February  
4 16, 2023 at 11:00 a.m.

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Date: November 30, 2022



Theodor C. Albert  
United States Bankruptcy Judge

Case Information	Parties
Orange County Superior Court; 30-2022-01254450-CU-BC-CJC	Michael C. Vaupel; Lynda L. Roese-Vaupel, as Individuals and Co-Trustees of the Vaupel Family Trust Dated March 6, 2008 as Amended and Restated February 16, 2010 v. AB Capital, LLC; Joshua Pukini; and Ryan J. Young
Orange County Superior Court; 30-2022-01244889-CU-BC-WJC	FCI Lender Services, Inc. v. AB Capital, LLC
Los Angeles County Superior Court; 22TRCV00066	Shoyinka Veronica Ogbelde v. AB Capital, LLC; Escrow Experts, Inc.; FCI Lenders Services Inc.
Orange County Superior Court; 30-2021-01236708-CU-WT-CJC	Cierra Taylor v. AB Capital, LLC; Luna Construction Management LLC; Joshua Pukini, Individually and as trustee of The Joshua R. Pukini Trust; Calpac Mortgage Fund LLC; Calpac Management Inc., dba Cal Pac Capital
Orange County Superior Court; 30-2021-01199187-CU-BC-CJC	410 Twenty Ninth Streets LLC v. AB Capital LLC; Joshua R. Pukini; Ryan J. Young
Los Angeles County Superior Court; 22TRCV00321	Konstro Designs & Engineering Inc. v. AB Capital LLC; Escrow Experts Inc.; FCI Lender Services Inc.; Joshua Pukini; Ryan Young
Los Angeles County Superior Court; 21STCV14445	Mikayel Israyelyan; 14241 Ventura LLC v. AB Capital, LLC; Joshua R. Pukini; Ryan Young; Justin C. Johnson; Calpac Management, Inc.
United States Bankruptcy Court Central District of California - Los Angeles Division; 2:21-bk-12447-ER	MED Equity, LLC - Debtor
United States Bankruptcy Court Central District of California - Santa Ana Division; 8:22-bk-11556-TA	Stonebridge Ventures, LLC
Los Angeles Superior Court Central District; 21STCV29689	Kurmi LLC v. AB Capital, LLC; BBG Ira, LLC; Kenneth Morgan trustee of the Kennth and Robin Morgan Trust dated 08/11/2021
Orange County Superior Court; 30-2021-01181232-CU-OR-CJC	Ferguson Enterprises LLC v. 1034 W Balboa LLC; ADW Lending LLC; Joshua Pukini; AB Capital LLC; Calpac Managements Inc.
Los Angeles County Superior Court; 22SMCV00390	Danmor Investment Profit Sharing Trust Inc; USTDS Inc. v. Calpac Mortgage Fund LLC; Joshua Pukini; Ryan Young
Inland Counties Riverside County Superior Court; CVPS2200340	Coldwell Banker Residential Brokerage v. Joshua R. Pukini; BDP Development Partners LLC
Orange County Superior Court; 30-2021-01236962-CU-BC-CJC	Frederick Veitch, Individually and as trustee of the Frederick A. Veitch Revocable Trust v. Calpac Mortgage Fund LLC; Luna Construction Management LLC; Joshua Pukini
Los Angeles County Superior Court; 21NWCV00635	Showroom Interiors; Vesta Home LLC v. Joshua R. Pukini; Stonebridge Ventures LLC
Orange County Superior Court; 30-2021-01200463-CU-OE-CJC	Cierra Taylor v. AB Capital, LLC; Luna Construction Management LLC; Joshua Pukini
Los Angeles Superior Court Central District; 20STCV47149	Meribear Productions, Inc. dba Meridith Baer Home v. Stonebridge Ventures LLC; Joshua R. Pukini
Inland Counties Riverside County Superior Court; PSC2004436	Probuild Company LLC v. Luna Construction Management LLC; Joshua R. Pukini; Stonebridge Ventures LLC
Orange County Superior Court; 30-2020-01162773-CL-OR-CJC	Probuild Company LLC v. Luna Construction Management LLC; Joshua R. Pukini; Stonebridge Ventures LLC
Los Angeles County Superior Court; 20STCV26093	Jllanchi Saman; Qwan Capital LLC; Qwan International Investments LLC v. Joshua Pukini; Ryan Young
Orange County Superior Court; 30-2019-01062223-CU-OR-CJC	Wayne Larry Jones, Individually and as Trustee of the Wayne Larry Jones Family Trust v. 2401 Alta Vista LLC; Studio Z Consulting Inc.; Richard W. Denzer; Joshua R. Pukini, Individually and as Trustee of the Joshua R. Pukini Trust
Los Angeles Superior Court Central District; BC697499	Randy Rose v. Howard A. Royal; Mag Equities, LLC; Calpac Management Inc.; Cal Pac Capital; Med Equity LLC; Joshua R. Pukini; 871 Linda Flora LLC
Orange County Superior Court; 00792151CJC	Stephanie Moarton-Pukini v. Samuel E. Sunshine, MD, a medical corp.; Comfort Laser Clinics
Orange County Superior Court; 07cc07499	Point Center Financial, Inc. v. Josh Pukini; Calif. Pacific Home Loans, Inc. dba Cal-Pac Funding
Los Angeles Superior Court; 21STLC02599	Ganahl Lumber Company v. Calpac Management Inc., et al.
San Diego Superior Court; 37-2020-00046579-SC-SC-CTL	The Bronze Legacy LLC v. Calpac Management Inc.
US Bankruptcy Court, Central District of California; 1:20-ap-01116	PB-1, LLC v. Calpac Management, Inc.
Los Angeles Superior Court; 18BBCV00223	Tap Ram Reinforcing, Inc. v. PB-1, LLC et. Al.
Riverside Superior Court; RIC1805223	County of Riverside v. Temescal-Leroy
Orange County Superior Court; 30-2015-00769288-CL-CL-CJC	Calsteal Builders, Inc. v. Calpac Management Inc.
Riverside Superior Court; TES1000086	Calpac v. Rancon
Riverside Superior Court; TES10000741	Calpac v. Horton
Orange County Superior Court; 30-2021-01199187-CU-BC-CJC	State of California, Employment Development Department v. Ryan Young
Kern Superior Court; R-1502-CL-10493	Desert Valleys Federal Credit Union v. Young
Los Angeles County Superior Court; BC400715	Robert E. Word v. Rodeny Gresko dba Quick Appraisal Services; California Pacific Home Loans, Inc.; Ryan Young
Los Angeles Superior Court; 22STLC04460	Reno Hardware & Supply, Inc. v. Luna Construction Management, LLC
Los Angeles Superior Court; 22SMCV00390	USTDS, Inc. et al v. Calpac Mortgage Fund LLC
United States Bankruptcy Court for the Northern District of California; 22-50930	In re 40th Street Development, LLC
Los Angeles Superior Court; 20BBCV00871	John Ingram v. CE Partners, LLC, Chris Nelson, and Does 1 through 100

EXHIBIT A

EXHIBIT 4

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

In re

Case No.: 8:22-bk-11585-TA

AB CAPITAL, LLC, a California limited liability company,  
Debtor,

Adv. Case No. 8:22-ap-01091-TA

[Assigned to Hon. Theodor C. Albert]

RICHARD A. MARSHACK, Chapter 7 Trustee,  
Plaintiff,

STIPULATED PROTECTIVE ORDER<sup>1</sup>

v.

JOSHUA R. PUKINI, individually and as trustee of The Joshua R. Pukini Trust dated June 27, 2013; RYAN YOUNG, individually and as trustee of The Young Family Trust dated August 24, 2014, The Ryan J. Young Trust and The Young Ryan Trust; EDMUND AVENIDA SERRA, LLC, a California limited liability company; 1034 W BALBOA, LLC, a California limited liability company; AB CAPITAL FUND B, LLC, a California limited liability company; AB CAPITAL HOLDINGS I, LLC, a California limited liability company; AB CAPITAL LFD, INC., a California corporation; ABC 2260 SAN YSIDRO, LLC, a California limited liability company; BDP DEVELOPMENT PARTNERS, LLC, a California limited liability company; CAL-PAC DISTRESSED REAL ESTATE FUND I, LLC, a California limited liability company; CALPAC MANAGEMENT, INC., a California corporation; CALPAC MORTGAGE FUND, LLC, a California limited liability company; LIVING ART WORKS LLC, a California limited liability company; LUNA CONSTRUCTION MANAGEMENT, LLC, a California limited liability company; TABLEROCK ENTERPRISES, LLC, a California limited liability company,  
Defendants.

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and request the Court to enter the following Stipulated Protective Order (“SPO”). This SPO does not confer blanket protections on all disclosures or responses to discovery. The protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. Further, this SPO does not entitle the parties to file confidential information under seal. Rather, when the parties seek permission from the court to file material under seal, the parties must comply with applicable statutes and/or Local Rules.

B. GOOD CAUSE STATEMENT

In light of the nature of the claims and allegations in this case and the parties’ representations that discovery in this case will involve the production of confidential records, and in order to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in connection with this action, to address their handling of such material at the end of the litigation, and to serve the

<sup>1</sup> This Stipulated Protective Order is based substantially on the model of protective order provided under Magistrate Judge Jacqueline Choolijan’s procedures.

EXHIBIT B

EXHIBIT 4

ends of justice, a protective order for such information is justified in this matter. The parties shall not designate any information/documents as confidential without a good faith belief that such information/documents have been maintained in a confidential, non-public manner, and that there is good cause or a compelling reason why it should not be part of the public record of this case.

2. DEFINITIONS

2.1 Action: this pending adversary proceeding, entitled *Marshack v. Pukini et al*, Adv. Pro. No. 8:22-ap-01091-TA.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this SPO.

2.3 "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Estate Professional(s): any individual or entities (including employees of such individual or entity) whose employment as a professional of the estate in the bankruptcy case of AB Capital, LLC, Bankr. Case No. 8:22-bk-11585-TA, has been approved by order entered by the Honorable Theodor C. Albert.

2.8 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.9 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.10 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.11 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, and includes support staff. This includes Estate Professionals employed as "Special Counsel", "General Counsel", "Special Litigation Counsel", or any other attorney who is an Estate Professional.

2.12 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

1           2.13    Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2           2.14    Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating,  
3 preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

4           2.15    Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL."

5           2.16    Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

6       3.       SCOPE

7           The protections conferred by this SPO cover not only Protected Material (as defined above), but also (1) any information copied or  
8 extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations,  
9 or presentations by Parties or their Counsel that might reveal Protected Material, other than during a court hearing or at trial.

10          Any use of Protected Material during a court hearing or at trial shall be governed by the orders of the presiding judge. This SPO does not  
11 govern the use of Protected Material during a court hearing or at trial.

12       4.       DURATION

13          Even after final disposition of this litigation, the confidentiality obligations imposed by this SPO shall remain in effect until a Designating  
14 Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and  
15 defenses in this Action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings,  
16 remands, trials, or reviews of this Action, including the time limits for filing any motions or applications for extension of time pursuant to applicable  
17 law.

18       5.       DESIGNATING PROTECTED MATERIAL

19          5.1       Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-Party that designates information or  
20 items for protection under this SPO must take care to limit any such designation to specific material that qualifies under the appropriate standards.  
21 The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so  
22 that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the  
23 ambit of this SPO.

24          Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been  
25 made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on  
26 other parties) may expose the Designating Party to sanctions.

27          If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that  
28 Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

1           5.2       Manner and Timing of Designations. Except as otherwise provided in this SPO or as otherwise stipulated or ordered, Disclosure  
2 or Discovery Material that qualifies for protection under this SPO must be clearly so designated before the material is disclosed or produced.

3           Designation in conformity with this SPO requires:

4                   (a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions), that the  
5 Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that contains protected  
6 material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected  
7 portion(s) (e.g., by making appropriate markings in the margins).

8           A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the  
9 inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the  
10 material made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has identified the documents it wants copied  
11 and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this SPO. Then, before  
12 producing the specified documents, the Producing Party must affix the "CONFIDENTIAL legend" to each page that contains Protected Material. If  
13 only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s)  
14 (e.g., by making appropriate markings in the margins).

15                   (b) for testimony given in depositions that the Designating Party identifies on the record, before the close of the deposition as  
16 protected testimony.

17                   (c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix  
18 in a prominent place on the exterior of the container or containers in which the information is stored the legend "CONFIDENTIAL." If only a portion  
19 or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

20           5.3       Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does  
21 not, standing alone, waive the Designating Party's right to secure protection under this SPO for such material. Upon timely correction of a designation,  
22 the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this SPO.

23       6.       CHALLENGING CONFIDENTIALITY DESIGNATIONS

24           6.1       Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent  
25 with the Court's Scheduling Order.

26           6.2       Meet and Confer. All parties reserve the right to object to a document being labeled as confidential. The Challenging Party  
27 shall notify the Designating Party of all objections to documents designated as CONFIDENTIAL, and absent a court order protecting the documents,  
28 the Challenging Party may use the documents upon the later of fifteen (15) days after giving the notice, or the Court's issuance of an order resolving

1 any pending challenge, whichever is later. During the fifteen (15) day notice period, the Designating Party shall initiate a meet and confer conference  
2 within three (3) business days of receipt of the notice.

3 6.3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those  
4 made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to  
5 sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in  
6 question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7 7. ACCESS TO AND USE OF PROTECTED MATERIAL

8 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-  
9 Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed  
10 only to the categories of persons and under the conditions described in this SPO. When the Action has been terminated, a Receiving Party must  
11 comply with the provisions of Section 13 below.

12 Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is  
13 limited to the persons authorized under this SPO.

14 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the  
15 Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

16 (a) the Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to  
17 whom it is reasonably necessary to disclose the information for this Action;

18 (b) Estate Professionals to whom it is reasonably necessary to disclose the information for this Action;

19 (c) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably  
20 necessary for this Action;

21 (d) Experts (as defined in this SPO) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have  
22 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

23 (e) the court and its personnel;

24 (f) court reporters and their staff;

25 (g) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this  
26 Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

27 (h) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew  
28 the information;

(i) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the "Acknowledgment and Agreement to Be Bound" form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the "Acknowledgment and Agreement to Be Bound" attached as Exhibit A, unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this SPO; and

(j) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as "CONFIDENTIAL," that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this SPO. Such notification shall include a copy of this SPO; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as "CONFIDENTIAL" before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party's permission, or unless otherwise required by the law or court order. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) The terms of this SPO are applicable to information produced by a Non-Party in this Action and designated as "CONFIDENTIAL." Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this SPO. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject

to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the SPO in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If a Non-Party fails to seek a protective order from this Court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this SPO, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this SPO, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement into this SPO.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this SPO abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. No Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this SPO. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this SPO.

12.3 Filing Protected Material. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may

1 file the information in the public record unless otherwise instructed by the court.

2 13. FINAL DISPOSITION

3 After the final disposition of this Action, as defined in Section 4, within 60 days of a written request by the Designating Party, each  
4 Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material"  
5 includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the  
6 Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person  
7 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was  
8 returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format  
9 reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings,  
10 motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work  
11 product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute  
12 Protected Material remain subject to this SPO as set forth in Section 4.

13 14. Any violation of this SPO may be punished by any and all appropriate measures including, without limitation, contempt proceedings  
14 and/or monetary sanctions.

15 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:

16 DATED: \_\_\_\_\_

17 \_\_\_\_\_  
18 Attorneys for Plaintiff

19 DATED: \_\_\_\_\_

20 \_\_\_\_\_  
21 Attorneys for Defendant

22 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

23 DATED: \_\_\_\_\_

24 \_\_\_\_\_  
25 HON. THEODOR C. ALBERT  
26 Chief Judge, Bankruptcy Court, Central District of California  
27  
28

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order ("SPO") that was issued by the United States Bankruptcy Court for the Central District of California on \_\_\_\_\_ in the case of *Marshack v. Pukini et al*, Adv. Pro. No. 8:22-ap-01091-TA. I agree to comply with and to be bound by all the terms of this SPO and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this SPO to any person or entity except in strict compliance with the provisions of this SPO.

I further agree to submit to the jurisdiction of the United States Bankruptcy Court for the Central District of California for the purpose of enforcing the terms of this SPO, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ [print or type full name] of \_\_\_\_\_ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this SPO.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_

**Exhibit 5**

**Final Settlement Statement**



PROSPER ESCROW

25301 Cabot Road Suite 214, Laguna Hills, CA 92653  
Phone: (949) 281-2300, Fax: (949) 424-8383

Printed: April 29, 2022 09:24am

**BORROWER'S FINAL SETTLEMENT STATEMENT**

	<b>DATE:</b>	April 29, 2022
<b>PROPERTY:</b>	38861 Elmwood Drive City of Rancho Mirage, CA 92270	<b>CLOSING/RECORD DATE:</b> April 28, 2022 <b>DISBURSEMENT DATE:</b> April 29, 2022
<b>BORROWER:</b>	Joshua R. Pukini, Trustee of the Joshua R. Pukini Trust dated 6/27/13	<b>ESCROW NO.:</b> 002098-JD <b>LOAN NO.:</b> PT-2022-38861-1

	<u>DEBITS</u>	<u>CREDITS</u>
<b>FINANCIAL CONSIDERATION</b>		
New 1st Trust Deed - See attached lender vesting addendum		385,000.00
<b>PAYOFF CHARGES - Del Toro Loan Servicing</b>		
<b>[Total Payoff \$7,256.12]</b>		
Principal Balance	235,000.00	
Interest on Principal Balance from 02/01/2022 to 05/02/2022	6,005.76	
Late Charges	195.84	
Late Charges	587.52	
Statement Fee	407.00	
Unpaid charges	60.00	
Lender roll over		235,000.00
<b>LOAN INFORMATION - See attached lender vesting addendum</b>		
<b>[Charges \$235,637.04]</b>		
Loan servicing set up fee to Del Toro Loan Servicing	100.00	
Old Lender Rollover	235,000.00	
Interest at \$89.5068/day from 04/25/2022 to 05/01/2022 to Del Toro Loan Servicing	537.04	
<b>TITLE/TAXES/RECORDING CHARGES - Lawyers Title Company</b>		
Title - Lender's Title Insurance	505.00	
Title - Sub Escrow Fee	90.00	
Title - Endorsement Fee	25.00	
Recording Trust Deed	175.00	
E-Recording Service Fee	14.00	
SB2 Recording Fees	225.00	
Delinquent Taxes	24,120.45	
Property Taxes 2021/2022	4,661.94	
<b>ESCROW CHARGES - Prosper Escrow Corporation</b>		
Title - Escrow Fee	650.00	
Title - Wire Fee	60.00	
Title - Fed Ex Fee	15.00	
<b>Total Refund</b>	111,565.45	
<b>TOTAL</b>	<b>\$ 620,000.00</b>	<b>\$ 620,000.00</b>

**SAVE THIS STATEMENT FOR INCOME TAX PURPOSES**

**Exhibit 6**

**Investor Creditors Payoff**

**DEL TORO LOAN SERVICING INC.**  
PREMIER SERVICES FOR PRIVATE LENDING PROFESSIONALS**Demand Loan Payoff****Borrower** Joshua R. Pukini Trust Dated June 27, 2013  
c/o Kristine Thagard, Of Counsel Marshack Hays  
Irvine CA 92620**Servicer** Del Toro Loan Servicing, Inc.  
PO Box 211000  
Chula Vista CA 91921  
(619) 474-5400

Account: F22050911-1

You are authorized to use the following amounts to payoff the above-mentioned loan. Upon receipt of payment in FULL the Release of Lien will be processed According to State Regulations.

**Payoff date : 06/30/2023**

Maturity Date :	05/01/2024
Next Payment Due :	08/01/2022
Interest Rate :	8.5000%
Current Rate :	8.5000%
Interest Paid to Date :	07/01/2022
Unpaid Principal :	\$384,899.51
Deferred Unpaid Principal :	\$0.00
Accru. Int. Balance from 07/01/2022-06/30/2023 :	\$32,626.82
Unpaid Interest :	\$0.00
Deferred Unpaid Interest :	\$0.00
Unpaid Fees:	\$0.00
Acc. Late Charges(Calculated through Payoff Date):	\$1,499.85
Unpaid Late Charges :	\$272.70
Deferred Unpaid Late Charges :	\$0.00
Unpaid Charges:	\$0.00
Other Fees:	\$0.00
Reserve Balance:	\$0.00
Escrow Balance:	\$0.00
Prepayment Penalty :	\$0.00
Principal Credit :	\$0.00
Interest Credit :	\$0.00
Unpaid Charges Credit :	\$0.00
Late Charges Credit :	\$0.00
Impound Credit :	\$0.00
Prepay Credit :	\$0.00
Unpaid Fees Credit :	\$0.00
<b>To Payoff Your Loan , Please Pay:</b>	<b>\$419,298.88</b>
Daily Interest Amount (After 6/30/2023)	\$89.63

\* Based on unpaid balance and unpaid charges combined.

\*\*\* If a payment or payoff is not received during the payment grace period, a late charge will be included in payoff of the loan, otherwise the late charge will be waived.

**(Only Certified Funds, Wire Transfer or Title Company Check will be accepted)****PLEASE CALL TO VERIFY PAYOFF AMOUNT AND FEES DUE, PRIOR TO ISSUING PAYMENTS.**

We reserve the right to amend this demand should any changes occur that would increase the total amount for payoff. **Please note this demand expires on 06/30/2023**, at which time you are instructed to contact this office for additional instructions (DEMAND FORWARDING FEES ARE DUE EVEN UPON CANCELLATION OF YOUR ESCROW).

Please make your disbursement payable to: **Del Toro Loan Servicing, Inc.**

Sincerely,

Del Toro Loan Servicing, Inc.

Attention: Data provided on this page is for informational purposes only and not to be used for tax purposes or Reinstatements out of Foreclosure.

Property List

38861 Elmwood Drive, RANCHO MIRAGE CA 92270

Itemization of Other Fees	
Description	Amount
Demand Fee	\$30.00
Recording Fee-Estimate Only	\$27.00
Reconveyance Fee	\$100.00
	\$157.00

**Attention:** Data provided on this page is for informational purposes only and not to be used for tax purposes or Reinstatements out of Foreclosure.